

SCHEDULES

SCHEDULE 6

PLANNING CONDITIONS

PART III

DEVELOPMENT IN ESSEX OR KENT

Introductory

- 12 This Part of this Schedule has effect in relation to development in Essex or Kent.

Planning regimes: district councils

- 13 (1) The requirement set out in paragraph 14 below shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a district council which is not a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1) above, development is relevant development to the extent that it consists of or includes—
- (a) the erection, construction, alteration or extension of any building, or
 - (b) the formation, laying out or alteration, otherwise than in connection with an excepted matter, of any means of access to any highway used by vehicular traffic.
- (3) The requirements set out in paragraphs 15 and 16 below shall be conditions of the deemed planning permission, so far as relating to development, other than excepted development, in the area of a district council which is a qualifying authority for the purposes of this Schedule.
- (4) For the purposes of sub-paragraph (3) above, excepted development is development consisting of—
- (a) the formation, laying out or alteration, in connection with an excepted matter, of any means of access to any highway used by vehicular traffic,
 - (b) the disposal of waste or spoil, or
 - (c) the excavation of bulk materials from borrow pits.
- (5) The requirements set out in paragraphs 17 and 18 below shall be conditions of the deemed planning permission, so far as relating to development in the area of a district council which is a qualifying authority for the purposes of this Schedule.
- (6) The requirements set out in paragraph 19 below shall be conditions of the deemed planning permission, so far as relating to development in the area of any district council.
- (7) For the purposes of this paragraph, the following are excepted matters—

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- (a) the transport of minerals,
- (b) the transport of surplus spoil or top soil,
- (c) the disposal of waste or spoil, and
- (d) the excavation of bulk materials from borrow pits.

District conditions: non-qualifying authority

- 14 (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the district planning authority at the request of the nominated undertaker.
- (2) The district planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
- (3) Where the district planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the district planning authority may refuse to approve plans or specifications for the purposes of this paragraph is—
- (a) that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits, or
 - (b) that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or local amenity and is reasonably capable of being so modified.

District conditions: qualifying authority

- 15 (1) To the extent that development consists of any operation or work mentioned in the left-hand column of the table in sub-paragraph (4) below, it shall be carried out in accordance with plans and specifications for the time being approved by the district planning authority at the request of the nominated undertaker.
- (2) The district planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
- (3) Where the district planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the district planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in the following table is a ground specified in relation to it in the right-hand column of that table.

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THE TABLE

<i>Operation or work</i>	<i>Grounds</i>
<p>1. <i>Construction works</i></p> <p>(a) The erection, construction, alteration or extension of any building (except for anything within (b) or (c) below or item 2 or 6) or road vehicle park.</p> <p>(b) The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.</p> <p>(c) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.</p>	<p>That the design or external appearance of the works ought to be modified—</p> <p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the limits of the land on which the works of which it forms part may be carried out under this Part of this Act.</p>
<p>2. <i>Minor construction works</i></p> <p>The erection, construction, alteration or extension of any transformers, telecommunications masts or pedestrian accesses to the railway line.</p>	<p>That the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p>3. <i>Fences and walls</i></p> <p>The erection, construction, alteration or extension of any fences or walls (except for anything within item 1(c) above).</p>	<p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p>4. <i>Highway access</i></p> <p>The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic.</p>	<p>That the development ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and is reasonably capable of being so modified.</p>
<p>5. <i>Gantries and overhead line supports</i></p> <p>The erection or construction of any gantries or overhead line supports for so much of the railway comprised in Work No. 13 as lies between 1,000 and 2,400 metres from its western end.</p>	<p>That the design or external appearance of the work ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p>
<p><i>Note:</i></p> <ol style="list-style-type: none">1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.2. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.	

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<i>Operation or work</i>	<i>Grounds</i>
<p>6. <i>Artificial lighting</i> The erection, construction or installation of lighting equipment.</p>	<p>That the design of the equipment, with respect to the emission of light, ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably be, carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Part of this Act.</p>

Note:

1. In the case of items 1(b) and (c) and 6, the second of the grounds specified does not apply in relation to development which forms part of a scheduled work.
2. Any reference in the left-hand column of the table to a description of works does not include works of that description of a temporary nature.

- (5) Sub-paragraph (4) above shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 16 (1) Development shall be carried out in accordance with arrangements approved by the district planning authority at the request of the nominated undertaker with respect to the matters mentioned in the left-hand column of the table in sub-paragraph (2) below.
- (2) The only ground on which the district planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
 - (b) the ground specified in relation to the matter in the right-hand column of the table.

THE TABLE

<i>Matters</i>	<i>Grounds</i>
<p>1. <i>Handling of re-useable spoil and top soil</i> Handling during removal, storage and re-use of any spoil or top soil removed during the course of carrying out the development.</p>	<p>That the arrangements ought to be modified to ensure that the spoil or top soil remains in good condition and are reasonably capable of being so modified.</p>
<p>2. <i>Storage sites</i> Sites on land within the relevant limits at which—</p> <ol style="list-style-type: none"> (a) minerals, aggregates or other construction materials required for the development, or (b) spoil or top soil, 	<p>That the arrangements ought to be modified—</p> <ol style="list-style-type: none"> (a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or

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<i>Matters</i>	<i>Grounds</i>
are to be stored until used or re-used in carrying out the development or disposed of as waste.	(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
<i>3. Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.	As item 2.
<i>4. Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.	As item 2.
<i>5. Hours of working</i> The hours and days of the week during which work on the development on land within the relevant limits is to be carried out.	That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.
<i>6. Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.	As item 5.
<i>7. Suppression of noise, dust and vibration</i> The suppression of noise, dust and vibration caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.	As item 5.
<i>8. Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying on the development.	That the arrangements ought to be modified— (a) to preserve the local environment or local amenity, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
<i>9. Highway access</i> The formation, laying out or alteration of any means of access to any highway used, or proposed highway proposed	That the arrangements ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,

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	<i>Matters</i>	<i>Grounds</i>
	to be used, on a temporary basis by vehicular traffic to serve a construction site or camp.	and are reasonably capable of being so modified.
	(3) The district planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.	
17	(1) No work to which this paragraph applies shall be brought into use without the approval of the district planning authority.	
	(2) The works to which this paragraph applies are—	
	(a) any scheduled work,	
	(b) any station constructed in exercise of the powers conferred by this Part of this Act, and	
	(c) any depot constructed in exercise of those powers for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.	
	(3) The district planning authority shall, at the request of the nominated undertaker, grant approval for the purposes of sub-paragraph (1) above if—	
	(a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or	
	(b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.	
	(4) The district planning authority shall not refuse to approve, nor impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (3)(b) above unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—	
	(a) to preserve the local environment or local amenity,	
	(b) to preserve a site of archaeological or historic interest, or	
	(c) in the interests of nature conservation,	
	and that the scheme is reasonably capable of being so modified.	
	(5) In this paragraph, “railway vehicle” and “track” have the same meanings as in Part I of the Railways Act 1993.	
18	Where the district planning authority approves a scheme for the purposes of paragraph 17(3)(b) above, the nominated undertaker shall be required—	
	(a) to carry out the scheme, and	
	(b) to comply with any condition subject to which the scheme is approved.	

District conditions: general

- 19 (1) Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, those operations shall be discontinued as soon as reasonably practicable after the completion of the relevant scheduled work or works.

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- (2) The nominated undertaker shall, following discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the district planning authority.
- (3) If, in relation to a site used for carrying out operations ancillary to the construction of any of the scheduled works, no scheme has been agreed for the purposes of sub-paragraph (2) above within 6 months of the completion of the relevant scheduled work or works, the scheme shall be such as the appropriate Ministers may determine after consultation with the nominated undertaker and the district planning authority.
- (4) Where, independently of any consultation under sub-paragraph (3) above, the appropriate Ministers ask the district planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (3) above, they may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
- (5) Sub-paragraph (2) above shall not apply to a site to the extent that it consists of land to which a scheme under paragraph 24 below applies.
- (6) Sub-paragraph (2) above shall not apply where the site is one in relation to which the nominated undertaker is subject to an obligation under paragraph 2(1) of Schedule 5 above.
- (7) In this paragraph, references to the relevant scheduled work or works, in relation to any site, are to the scheduled work or works to which the operations carried out on that site were ancillary.

Planning regimes: county councils

- 20
- (1) The requirement set out in paragraph 21 below shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a county council which is not a qualifying authority for the purposes of this Schedule.
 - (2) For the purposes of sub-paragraph (1) above, relevant development is development consisting of the formation, laying out or alteration, in connection with an excepted matter, of any means of access to a highway used by vehicular traffic.
 - (3) The requirements set out in paragraphs 22, 23 and 24 below shall be conditions of the deemed planning permission, so far as relating to relevant development in the area of a county council which is a qualifying authority for the purposes of this Schedule.
 - (4) For the purposes of sub-paragraph (3) above, relevant development is development consisting of—
 - (a) the formation, laying out or alteration, in connection with an excepted matter, of any means of access to a highway used by vehicular traffic,
 - (b) the disposal of waste or spoil, or
 - (c) the excavation of bulk materials from borrow pits.
 - (5) The requirement set out in paragraph 25 below shall be a condition of the deemed planning permission, so far as relating to development in the area of a county council which is a qualifying authority for the purposes of this Schedule.
 - (6) For the purposes of this paragraph, the following are excepted matters—
 - (a) the transport of minerals,

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- (b) the transport of surplus spoil or top soil,
- (c) the disposal of waste or spoil, and
- (d) the excavation of bulk materials from borrow pits.

County conditions: non-qualifying authority

- 21
- (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the county planning authority at the request of the nominated undertaker.
 - (2) The county planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
 - (3) Where the county planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
 - (4) The only ground on which the county planning authority may refuse to approve plans or specifications for the purposes of this paragraph is that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits.

County conditions: qualifying authority

- 22
- (1) To the extent that development consists of any operation or work mentioned in the left-hand column of the table in sub-paragraph (4) below, it shall be carried out in accordance with plans and specifications for the time being approved by the county planning authority at the request of the nominated undertaker.
 - (2) The county planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
 - (3) Where the county planning authority exercises the power conferred by sub-paragraph (2) above, the plans and specifications in accordance with which the development is required under sub-paragraph (1) above to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
 - (4) The only ground on which the county planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in the following table is a ground specified in relation to it in the right-hand column of that table.

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THE TABLE

<i>Operation or work</i>	<i>Grounds</i>
<p>1. <i>Highway access</i> The formation, laying out or alteration of any means of access to a highway used, or proposed highway proposed to be used, by vehicular traffic.</p>	<p>That the development ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and is reasonably capable of being so modified.</p>
<p>2. <i>Waste and spoil disposal</i> The disposal of waste or spoil.</p>	<p>That—</p> <ul style="list-style-type: none">(a) the design or external appearance of disposal sites on land within the relevant limits,(b) the methods by which such sites are worked, or(c) the noise, dust, vibration or screening arrangements during the operation of such sites, ought to be modified and are reasonably capable of being modified. <p>That—</p> <ul style="list-style-type: none">(a) to preserve the local environment or local amenity,(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or(c) to preserve a site of archaeological or historic interest or nature conservation value, <p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p>
<p>3. <i>Borrow pits</i> The excavation of bulk materials from borrow pits.</p>	<p>That—</p> <ul style="list-style-type: none">(a) the design or external appearance of borrow pits on land within the relevant limits,(b) the methods by which such pits are worked, or(c) the noise, dust, vibration or screening arrangements during the operation of such pits, <p>ought to be modified and are reasonably capable of being modified.</p> <p>That—</p> <ul style="list-style-type: none">(a) to preserve the local environment or local amenity,

Note: In the case of items 2 and 3, the second of the grounds specified does not apply in relation to development which—

- (a) is within the limits of deviation for the scheduled works, or
- (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.

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<i>Operation or work</i>	<i>Grounds</i>
	(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
	(c) to preserve a site of archaeological or historic interest or nature conservation value,
	the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.

Note: In the case of items 2 and 3, the second of the grounds specified does not apply in relation to development which—

- (a) is within the limits of deviation for the scheduled works, or
 (b) consists of the use of land specified in columns (1) and (2) of Part I of Schedule 4 for a purpose specified in relation to the land in column (3) of that Part.

- (5) Sub-paragraph (4) above shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 23 (1) Development shall be carried out in accordance with arrangements approved by the county planning authority at the request of the nominated undertaker with respect to the matters mentioned in the left-hand column of the table in sub-paragraph (2) below.
- (2) The only ground on which the county planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
- (b) the ground specified in relation to the matter in the right-hand column of the table.

THE TABLE

<i>Matters</i>	<i>Grounds</i>
1. <i>Handling of re-usable spoil and top soil</i> Handling during removal, storage, and re-use of any spoil or top soil removed during the course of carrying out the development.	That the arrangements ought to be modified to ensure that the spoil or top soil remains in good condition and are reasonably capable of being so modified.
2. <i>Storage sites</i> Sites on land within the relevant limits at which—	That the arrangements ought to be modified—
(a) minerals, aggregates or other construction materials required for the development, or	(a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or
(b) spoil or top soil, are to be stored until used or re-used in carrying out the development or disposed of as waste.	(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,

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<i>Matters</i>	<i>Grounds</i>
	and are reasonably capable of being so modified.
<i>3. Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.	As item 2.
<i>4. Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.	As item 2.
<i>5. Hours of working</i> The hours and days of the week during which work on the development on land within the relevant limits is to be carried out.	That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.
<i>6. Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.	As item 5.
<i>7. Suppression of noise, dust and vibration</i> The suppression of noise, dust and vibration caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.	As item 5.
<i>8. Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying on the development.	That the arrangements ought to be modified— (a) to preserve the local environment or local amenity, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
<i>9. Highway access</i> The formation, laying out or alteration of any means of access to any highway used, or proposed highway proposed to be used, on a temporary basis by vehicular traffic to serve a working site or camp.	That the arrangements ought to be modified to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.

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- (3) The county planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.
- 24 (1) To the extent that development consists of—
- (a) the disposal of waste or spoil, or
 - (b) the excavation of bulk materials from borrow pits,
- it shall not be begun unless the county planning authority has, at the request of the nominated undertaker, approved a scheme for the restoration of the land on which the development is to be carried out.
- (2) The only ground on which the county planning authority may refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph is that the scheme ought to be modified and is reasonably capable of being modified.
- (3) The nominated undertaker shall carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out development of a kind to which sub-paragraph (1) above applies.
- (4) In sub-paragraph (1) above, the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.
- 25 (1) Development shall be carried out in accordance with arrangements approved by the county planning authority at the request of the nominated undertaker with respect to the means and routes by which anything is to be transported on a highway by large goods vehicle to a working or storage site, a site where it will be re-used or a waste disposal site.
- (2) The only ground on which the county planning authority may refuse to approve arrangements for the purposes of this paragraph is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
 - (b) that the arrangements ought to be modified—
 - (i) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or
 - (ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,
 and are reasonably capable of being so modified.
- (3) The county planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.
- (4) In this paragraph, “large goods vehicle” has the same meaning as in Part IV of the Road Traffic Act 1988.