

**2014 No. 2269**

**INFRASTRUCTURE PLANNING**

**The A556 (Knutsford to Bowdon Improvement) Development  
Consent Order 2014**

*Made* - - - - *28th August 2014*

*Coming into force* - - *18th September 2014*

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An application has been made to the Secretary of State, in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37, 114, 115, 120 and 122 of the Planning Act 2008(b).

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

The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with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

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

## PART 1

### PRELIMINARY

#### **Citation and commencement**

1. This Order may be cited as the A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 and comes into force on 18th September 2014.

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(a) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.  
 (b) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).  
 (c) S.I. 2010/103, amended by S.I. 2012/635.

## Interpretation

### 2.—(1) In this Order—

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

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

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

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

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

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

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

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

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

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

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

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

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

“the car parking drawings” means the drawings specified in article 34(1)(j) (certification of plans, etc.) and certified as the car parking drawings by the Secretary of State for the purposes of this Order;

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

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

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“the engineering drawings and sections” means the documents specified in article 34(1)(e) and certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

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

“the junction design drawings” means drawings specified in article 34(1)(h) and certified as the junction design drawings by the Secretary of State for the purposes of this Order;

“the land plans” means the plans specified in article 34(1)(b) and certified as the land plans by the Secretary of State for the purposes of this Order;

“the lighting drawings” means the drawings specified in article 34(1)(i) and certified as the lighting drawings by the Secretary of State for the purposes of this Order;

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(a) 1961 c. 33.

(b) 1965 c. 56.

(c) 1980 c. 66.

(d) 1981 c. 66.

(e) 1984 c. 27.

(f) 1990 c. 8.

(g) 1991 c. 22.

(h) 2008 c. 29.

(i) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation);

“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, remove or reconstruct and any derivative of “maintain” is to be construed accordingly;

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

“the Order limits” means the limits of deviation shown on the works plans, and the limits of land to be acquired or used permanently or temporarily shown on the land plans, within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981<sup>(a)</sup> (interpretation);

“relevant planning authority” means the local planning authority for the land in question;

“rights of way and access plans” means the plans specified in article 34(1)(c) and certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;

“Secretary of State” means the Secretary of State for Transport;

“special road” means a highway which is a special road in accordance with section 16 of the 1980 Act (general provisions as to special roads) or by virtue of an order granting development consent;

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

“street” means a street within the meaning of section 48 of the 1991 Act (streets, street works and undertakers), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the structure drawings” means the drawings specified in article 34(1)(g) and certified as the structure drawings by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

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

- (a) section 10 or 19(1) of the 1980 Act (provisions as to trunk roads);
- (b) an order or direction under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

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

“the works plans” means the plans specified in article 34(1)(d) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

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

(4) All areas described in square metres in the book of reference are approximate.

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

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(a) 1981 c. 67.

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

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by the Order**

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

(2) Subject to article 5 (limits of deviation) the authorised development may only be constructed in the lines and situations shown on the works plans and the levels shown on the engineering drawings and sections.

#### **Maintenance of authorised development**

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

#### **Limits of deviation**

5. In carrying out linear works the Secretary of State may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, provided that deviation is within the scope of the environmental impact assessment, to a maximum of 0.5 metres upwards or downwards.

#### **Benefit of Order**

6.—(1) Subject to article 7 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the Secretary of State have effect solely for the benefit of the Secretary of State.

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

#### **Consent to transfer benefit of Order**

7.—(1) The Secretary of State may—

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

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

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

## PART 3

### STREETS

#### Application of the 1991 Act

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

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings over footways and verges).

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

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

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

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the promoter under the powers conferred by article 12 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

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

- section 54(b) (advance notice of certain works), subject to paragraph (6);
- section 55(c) (notice of starting date of works), subject to paragraph (6);
- section 57(d) (notice of emergency works);
- section 59(e) (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);

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(a) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(b) As also amended by section 49(1) of the Traffic Management Act 2004.

(c) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

(d) As also amended by section 52(3) of the Traffic Management Act 2004.

(e) As amended by section 42 of the Traffic Management Act 2004.

section 69 (works likely to affect other apparatus in the street);  
section 75 (inspection fees);  
section 76 (liability for cost of temporary traffic regulation); and  
section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 9 (construction and maintenance of new, altered or diverted streets)—

- (a) affects the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the Secretary of State is not by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

### **Construction and maintenance of new, altered or diverted streets**

**9.**—(1) Subject to paragraphs (4) and (5), any street (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion.

(2) Subject to paragraphs (4) and (5), where a street (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the street authority from its completion.

(3) Subject to paragraphs (4) and (5), where a highway is de-trunked under this Order—

- (a) section 265 of the 1980 Act (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a public right of way, the highway surface must be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the Secretary of State.

(5) In the case of a bridge constructed under this Order to carry a private right of way, the surface and the structure of the bridge must be maintained by and at the expense of the Secretary of State.

(6) In any action against the Secretary of State in respect of loss or damage resulting from any failure by the Secretary of State to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the Secretary of State had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

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

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;



- (d) whether the Secretary of State knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the Secretary of State could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Secretary of State had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Secretary of State had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

**Classification of roads etc.**

**10.**—(1) On the date on which the roads described in Parts 1 and 2 of Schedule 3 (classification of roads) are completed and open for traffic—

- (a) the roads described in Parts 1 and 2 of Schedule 3 are to become trunk roads as if they had become so by virtue of an order under section 10(2) of the 1980 Act (general provision as to trunk roads) specifying that date as the date on which they were to become trunk roads;
- (b) the roads described in Part 1 of Schedule 3 are to be—
  - (i) classified as special roads for purposes of any enactments and instruments which refer to highways classified as special roads; and
  - (ii) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4 to the 1980 Act; and
- (c) the roads described in Part 2 of Schedule 3 are to be classified as the A556 and are to be—
  - (i) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
  - (ii) a classified road for the purpose of any enactment or instrument which refers to highways classified as classified roads,
 as if such classification had been made under section 12(3) of the 1980 Act (general provision as to principal and classified roads).

(2) On such day as the Secretary of State may determine, the roads described in Part 3 of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) From the date on which the roads specified in Part 4 of Schedule 3 are completed and open for traffic, no person is to drive any motor vehicle at a speed exceeding 50 miles per hour in the lengths of road identified in that Part of that Schedule.

(4) From the date on which the roads specified in Part 5 of Schedule 3 are completed and open for traffic, no person is to drive any motor vehicle at a speed exceeding 60 miles per hour in the lengths of road identified in that Part of that Schedule.

(5) The application of paragraphs (1) to (4) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

**Permanent stopping up of streets**

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

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

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

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 4 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the Secretary of State is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

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

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

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

(7) This article is subject to article 28 (apparatus and rights of statutory undertakers in stopped-up streets).

### **Temporary stopping up of streets**

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

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

(2) Without limitation on the scope of paragraph (1), the Secretary of State may use any street temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

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

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

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

## Access to works

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

## Clearways

14.—(1) On the date on which the roads described in Part 3 of Schedule 3 (classification of roads etc.) are de-trunked in accordance with article 10(2) (classification of roads etc.)—

(a) the Swansea-Manchester Trunk Road (Prohibition of Waiting) (Clearways) Order 1970(a) is varied by substituting for paragraph 1 of Schedule 1, “Between the southern boundary of the Borough of Altrincham to the point 356 metres south of the southern abutment of Chester Road Bridge”; and

(b) any other order prohibiting the waiting of vehicles in relation to those roads is revoked.

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

(3) Nothing in paragraph (2) applies—

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

(i) the removal of any obstruction to traffic;

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

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

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

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

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

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

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

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

(i) required by law to stop;

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

(iii) prevented from proceeding by circumstances outside the person’s control.

(4) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph 5 of Part 2 of Schedule 3 for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

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(a) S.I. 1970/104.

(b) 1984 c. 12.

(c) 1991 c. 56.

(d) 2000 c. 26.

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

(6) In this article, “traffic officer” means an individual designated under section 2 of the Traffic Management Act 2004(a) (designation of traffic officers).

## PART 4 SUPPLEMENTAL POWERS

### **Discharge of water**

**15.—**(1) The Secretary of State may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

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

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

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

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

(6) The Secretary of State must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(c).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(d) have the same meaning as in that Act.

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(a) 2004 c. 18.

(b) Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(c) S.I. 2010/675, to which there are amendments not relevant to this Order.

(d) 1991 c. 57.

## **Protective work to buildings**

**16.**—(1) Subject to the following provisions of this article, the Secretary of State may at the Secretary of State’s own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the Secretary of State considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Secretary of State may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

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

(5) Before exercising—

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

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

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 36 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the Secretary of State must compensate the owners and occupiers of the building for any loss or damage sustained by them.

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

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

**Authority to survey and investigate the land**

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

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the Secretary of State thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Secretary of State—

- (a) must, if so required, before or after entering the land, produce written evidence of authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

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

but such consent must not be unreasonably withheld.

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

## PART 5

### POWERS OF ACQUISITION

**Compulsory acquisition of land**

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

(2) This article is subject to paragraph (2) of article 20 (compulsory acquisition of rights) and paragraph (8) of article 26 (temporary use of land for carrying out the authorised development).

**Time limit for exercise of authority to acquire land compulsorily**

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

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the 1981 Act (execution of declaration) as applied by article 22 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 26 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Secretary of State remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

### **Compulsory acquisition of rights**

**20.**—(1) Subject to paragraphs (2) to (4), the Secretary of State may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

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

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) The power to acquire rights in paragraph (1) does not extend to the plots with reference numbers 2/1h, 2/1i, 2/2b, 2/2e, 2/2g, 2/2j, 2/6f, 2/7c, 2/8e, 2/8f, 2/8g, 2/8h, 3/1a, 3/2p, 3/2q, 3/2r, 3/2s, 3/7, 4/2d, 4/2l, 4/4r, 4/7e, 4/7f, 4/7g, 5/1e and 5/1p.

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

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

### **Private rights over land**

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

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

whichever is the earlier.

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

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

whichever is the earlier.

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

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

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

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 27 (statutory undertakers) applies.

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

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

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

(ii) the Secretary of State's appropriation of it;

(iii) the Secretary of State's entry onto it; or

(iv) the Secretary of State's taking temporary possession of it,

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

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

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

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

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

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

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

### **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

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

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

(3) In section 1 (application of Act) for subsection (2) substitute—

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

(4) In section 3 (preliminary notices) for subsection (1) substitute—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and

(b) published in a local newspaper circulating in the area in which the land is situated.”.



(5) In that section, in subsection (2), for “(1)(b)” substitute “(1)” and after “given” insert “and published”.

(6) In that section, for subsections (5) and (6) substitute—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(7) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and
- (b) omit subsection (2).

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

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

#### **Acquisition of subsoil or air-space only**

**23.**—(1) The Secretary of State may acquire compulsorily so much of, or such rights in, the subsoil of or the air-space over the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

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

(3) Paragraph (2) does not prevent article 24 (acquisition of part of certain properties) from applying where the Secretary of State acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) The power to acquire any part of, or rights in, the subsoil of or the air-space over land does not extend to the plots with reference numbers 2/1h, 2/1i, 2/2b, 2/2e, 2/2g, 2/2j, 2/6f, 2/7c, 2/8e, 2/8f, 2/8g, 2/8h, 3/1a, 3/2p, 3/2q, 3/2r, 3/2s, 3/7, 4/2d, 4/2l, 4/4r, 4/7e, 4/7f, 4/7g, 5/1e and 5/1p.

#### **Acquisition of part of certain properties**

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

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Secretary of State a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat is, unless the Secretary of State agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(8) If the Secretary of State agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and in that event must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the Secretary of State must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

### **Rights under or over streets**

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

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

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the Secretary of State acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**26.—**(1) The Secretary of State may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act (execution of declaration);
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;
- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 7, or any other mitigation works; and
- (e) construct Works Nos. 5, 6 and 7 on that land.

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

(3) The Secretary of State may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of the plots with reference numbers 2/1i, 2/2i, 2/4e and 2/4h, after the new rights have been created pursuant to article 20 (compulsory acquisition of rights);
- (b) in the case of other land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or
- (c) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the Secretary of State has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Secretary of State must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Secretary of State is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraphs (1)(d) or (1)(e); or
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development.

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

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

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

(8) The Secretary of State may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the Secretary of State is not precluded from—

- (a) acquiring new rights over any part of that land under article 20; or
- (b) acquiring any part of the subsoil (or rights in the subsoil of or air-space over) that land under article 23 (acquisition of subsoil or air-space only).

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

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

(11) Paragraph (1)(a)(ii) does not authorise the Secretary of State to take temporary possession of any land which the Secretary of State is not authorised to acquire under article 18 (compulsory acquisition of land) or any land specified in Schedule 5 (land in which only new rights etc. may be acquired).

### **Statutory undertakers**

**27.—**(1) Subject to the provisions of article 20(3) (compulsory acquisition of rights), Schedule 8 (protective provisions) and paragraph (2), the Secretary of State may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over any Order land belonging to statutory undertakers;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

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

- (a) Part 3 of the 1991 Act (street works in England and Wales); and
- (b) article 28 (apparatus and rights of statutory undertakers in stopped up streets).

### **Apparatus and rights of statutory undertakers in stopped up streets**

**28.—**(1) Where a street is stopped up under article 11 (permanent stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 11 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the Secretary of State must—

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

(3) Subject to the following provisions of this article, the Secretary of State must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Secretary of State, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

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

(8) In this article—

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a) (interpretation).

### **Recovery of costs of new connections**

**29.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 27 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the Secretary of State compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 27, any person who is—

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

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

(3) This article does not have effect in relation to apparatus to which article 28 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

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

## **PART 6 OPERATIONS**

### **Felling or lopping of trees**

**30.**—(1) The Secretary of State may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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

(2) In carrying out any activity authorised by paragraph (1), the Secretary of State must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

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(a) 2003 c. 21.

**PART 7**  
**MISCELLANEOUS AND GENERAL**

**Operational land for purposes of the 1990 Act**

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

**Defence to proceedings in respect of statutory nuisance**

**32.—**(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development.

**Protection of interests**

**33.** Schedule 8 (protective provisions) has effect.

**Certification of plans, etc.**

**34.—**(1) As soon as practicable after the making of this Order, copies of—

- (a) the book of reference (revision Variant 1, February 2014);
- (b) the land plans (document references B1076602/OD/65/01 - B1076602/OD/65/07, revision 2, February 2014 as amended by substitution of variant land plans A556-CAP-0000-PJW-SK-G-0003, 0005, 0006 and 0007 Rev P01 for 03, 05, 06 and 07);
- (c) the rights of way and access plans (document references B1076602/OD/62/01 - B1076602/OD/62/07, revision 2, February 2014);

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

(b) 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 25).

- (d) the works plans (document references B1076602/OD/105/01 - B1076602/OD/105/07, revision 2, February 2014);
- (e) the engineering drawings and sections (document references B1076602/OD/149/01 - B1076602/OD/149/23, revision 2, February 2014);
- (f) the environmental statement (document references:
  - (i) 6.1.1-6.1.3,
  - (ii) 6.2.1-6.2.20,
  - (iii) 6.3.1-6.3.7,
  - (iv) A556 Rule 8-10 HA WR 1A-C,
  - (v) Rule 8\_10 HAWR 3 - ES Addendum January 2014,
  - (vi) Rule 8\_10 HAWR 3 - ES Addendum January 2014 Appendices A-F);
- (g) the structure drawings (documents references SK071-SK080, A556-CAP-0000-MLG-SK-C-0001, A556-CAP-0000-BWN-SK-C-0001, A556-CAP-0000-MLI-SK-C-0003, A556-CAP-0000-CHP-SK-C-0003, A556-CAP-0000-MLI-SK-C-0002, A556-CAP-0000-A50-SK-C-0001, A556-CAP-0000-GRE-SK-C-0001, A556-CAP-0000-BEN-SK-C-0001, A556-CAP-0000-TAB-SK-C-0001 and A556-CAP-0000-OHU-SK-C-0001);
- (h) the junction design drawings (document references A556-CAP-0000-A50-SK-C-0002, A556-CAP-0100-DTR-SK-C-0022 and A556-CAP-0100-MER-SK-C-0027);
- (i) the lighting drawings (document references A556-CAP-1300-PJW-SK-C-0024 to A556-CAP-1300-PJW-SK-C-0028); and
- (j) the car parking drawings (document references A556-CAP-0000-DTR-SK-C-0147 and A556-CAP-0000-DTR-SK-C-0148),

must be certified by the Secretary of State as true copies of the documents referred to in this Order.

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

### **Service of notices**

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

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

(3) For the purposes of section 7 of the Interpretation Act 1978<sup>(a)</sup> (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

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<sup>(a)</sup> 1978 c. 30.



(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

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

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

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

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

### **Arbitration**

**36.** Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

### **Traffic regulation**

**37.—**(1) This article applies to roads in respect of which the Secretary of State is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the Secretary of State may, for the purposes of the authorised development—

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

- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

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

(3) Subject to paragraph (7), the power conferred by paragraph (2) cannot be exercised after the expiry of 12 months from the opening of the authorised development for public use, but any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

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

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

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the Secretary of State's intention to do so in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of the Secretary of State's intention to do so in the case of a prohibition, restriction or other provision intended to have effect temporarily,
 to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the Secretary of State's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(ii).

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

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 of the 1984 Act<sup>(a)</sup> (power of local authorities to provide parking places),
 and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004<sup>(b)</sup> (road traffic contraventions subject to civil enforcement).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the Secretary of State from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the Secretary of State must consult such persons as the Secretary of State considers necessary and appropriate and must take into consideration any representations made to the Secretary of State by any such person.

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

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(a) Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c. 18.

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

Signed by authority of the Secretary of State for Transport

28th August 2014

*Martin Woods*  
Head of the Transport and Works Act Orders Unit  
Department for Transport

# SCHEDULES

## SCHEDULE 1

Article 2

### AUTHORISED DEVELOPMENT

#### **In the administrative area of Cheshire East Council**

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act<sup>(a)</sup>, comprising:

**Work No. 1** — the construction of a new all-purpose dual carriageway (“the new A556”) and improvements to a section of the existing A556 to dual carriageway standard, totalling 7.5 kilometres in length, between M6 Junction 19 and M56 Junction 7, to include:

- (a) the modification of the existing M6 Junction 19 roundabout to stop up the existing access to and from Chester Road (the existing A556) and to create a new access to the new A556;
- (b) the construction of a new non-motorised user link between the de-trunked A556 (in accordance with Part 3 of Schedule 3) and Old Hall Lane, to accommodate pedestrians, cyclists and horse riders;
- (c) the construction of a new underpass for the new Old Hall Lane to A556 non-motorised user link, beneath the new A556;
- (d) the construction of a new non-motorised user link between the M6 Junction 19 roundabout and the Old Hall Lane to A556 non-motorised user link, to accommodate pedestrians and cyclists;
- (e) the construction of a new retaining wall to support the earthworks for the new A556 carriageway adjacent to Tabley Parish Hall;
- (f) the construction of the new Old Hall Lane (West) single carriageway highway, from a point 36 metres east of the access to Over Tabley Hall Farm, northwards, along the western boundary of the new trunk road, to a new grade separated roundabout junction for the new A556 northbound off-slip, west of the new A556, a total distance of 830 metres, including the roundabout circumference (Reference A - Rights of Way and Access Plans – Sheet 2) to include the improvement of the existing C610 Old Hall Lane from a point 74 metres west from the access to Over Tabley Hall Farm, eastwards for a distance of 109 metres;
- (g) the construction of a new northbound off-slip to the west of the new A556 and one new southbound on-slip to the east of the new A556;
- (h) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and Old Hall Lane (West);
- (i) the construction of a new outfall to Tabley Brook to the west of the new highway drainage attenuation and pollution control facility;
- (j) the construction of the new Old Hall Lane (East) single carriageway highway, from a point 2 metres south of the existing access to field OS No. 3843, generally westwards then over the new A556, to a new roundabout junction for the new A556 northbound off-slip, west of the new A556, a total distance of 419 metres (Reference B - Rights of Way and Access Plans – Sheet 2) to include the improvement of the existing A556 Chester Road from a point 104 metres south from the access to field OS No. 3351 and field OS No. 3843, northwards for a distance of 213 metres;

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(a) Section 22 was substituted by article 3 of S.I. 2013/1883.

- (k) the construction of a new culvert beneath the new Old Hall Lane (East);
- (l) the construction of a new Chester Road Roundabout to connect Old Hall Lane (East) with the existing Chester Road and associated improvement works;
- (m) the construction of a new culvert beneath the new A556, north of Tabley Junction;
- (n) the construction of a new overbridge on UW2127 Bentley Hurst Lane and the re-alignment of the UW2127 Bentley Hurst Lane carriageway;
- (o) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and 500 metres to the north of UW2127 Bentley Hurst Lane;
- (p) the construction of a second new outfall to Tabley Brook to the west of the new highway drainage attenuation and pollution control facility;
- (q) the construction of a new Green / Accommodation overbridge for the provision of a new access track to privately owned fields to the east and west of the new A556;
- (r) the construction of a new culvert beneath the new A556, south of the new Green / Accommodation overbridge;
- (s) the construction of a new culvert beneath the access track, east of the Green / Accommodation overbridge;
- (t) the construction of a new overbridge on the A50 and the re-alignment of the A50 carriageway;
- (u) the construction of a new roundabout junction on the re-aligned A50 and a new northbound on-slip road to the new A556;
- (v) the construction of a new culvert beneath re-aligned A50, west of the new A556 and the new A50 roundabout junction;
- (w) the construction of new highway turning areas on C113 Bucklow Hill Lane, on the east and west of the new A556; to include the improvement of the existing C113 Bucklow Hill Lane from a point 156 metres east of its junction with the access to Hulme Barns Farm, north eastwards for a distance of 23 metres and the improvement of the existing C113 Bucklow Hill Lane from a point 189 metres west of its junction with A556 Chester Road, westwards for a distance of 28 metres;
- (x) the construction of a new overbridge on C114 Chapel Lane and re-alignment of the C114 Chapel Lane carriageway;
- (y) the construction of a new culvert beneath the new A556, south of the new C114 Chapel Lane overbridge;
- (z) the construction of new highway turning areas on UW2104 Millington Hall Lane, on the east and west of the new A556; to include the improvement of the existing UW2104 Millington Hall Lane from a point 67 metres east of Denfield Cottage access, south eastwards for a distance of 18 metres and the improvement of the existing UW2104 Millington Hall Lane from a point 120 metres west of its junction with A556 Chester Road, south eastwards for a distance of 25 metres;
- (aa) the construction of new highway from a point 215 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, northwards for a distance of 17 metres to connect to the new A556 southbound off-slip (Reference B - Rights of Way and Access Plans – Sheet 5) to include the improvement of the existing A556 Chester Road, from a point 32 metres north of its junction with UW2104 Millington Hall Lane, northwards for a distance of 272 metres;
- (bb) the construction of new highway from a point 215 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, southwards for a distance of 161 metres, including the roundabout circumference of the new Millington Roundabout junction, to connect to the improved A556 Chester Road (Reference C - Rights of Way and Access Plans – Sheet 5);
- (cc) the construction of new highway from a point 207 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, north eastwards for a distance of

- 27 metres to connect to the improved A556 Chester Road (Reference D - Rights of Way and Access Plans – Sheet 5);
- (dd) the construction of a new engineered earthworks slope on the east of new A556 and adjacent to Bucklow Manor;
  - (ee) the improvement of UW2089 Cherry Tree Lane and construction of new link road to connect UW2089 Cherry Tree Lane to the existing A556 Chester Road, to the east of the new A556;
  - (ff) the construction of a new overbridge on C116 Millington Lane and the re-alignment of the C116 Millington Lane carriageway;
  - (gg) the construction of a new at-grade junction on C116 Millington Lane to connect the re-aligned C116 Millington Lane with the Chester Road (Northern Link) and Cherry Tree Lane Link road to include the improvement of the existing A556 Chester Road junction with C116 Millington Lane;
  - (hh) the re-modelling of the existing junction between the existing A556 Chester Road and UW2089 Cherry Tree Lane to accommodate the new Cherry Tree Lane Link road;
  - (ii) the construction of a retaining wall to the east of the new Cherry Tree Lane Link to support the widened highway of the improved existing A556 and the Cherry Tree Lane Link road;
  - (jj) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and south of the M56;
  - (kk) the re-modelling of the existing Bowdon Roundabout to accommodate additional links provided for M56 Junction 7/8;
  - (ll) the construction of a new roundabout to improve M56 Junction 7/8 and the construction of the new M56 spur westbound off-slip, a new A556 southbound merge interchange link and the Bowdon Roundabout Link between the new roundabout and the re-modelled Bowdon Roundabout;
  - (mm) the construction of a new overbridge for the Bowdon Roundabout Link road and the construction of the re-aligned M56 westbound and eastbound spur roads;
  - (nn) the realignment of the existing M56 spur eastbound on-slip road from Bowdon Roundabout to accommodate the re-aligned M56 eastbound spur road;
  - (oo) the construction of a new highway drainage attenuation and pollution control facility in the land between the new M56 eastbound on-slip road from Bowdon Roundabout, the re-aligned M56 eastbound spur road and the new Bowdon Roundabout Link road;
  - (pp) the construction of a new outfall to the River Bollin from the new highway drainage attenuation and pollution control facility;
  - (qq) the construction of a new footpath (Reference A - Rights of Way and Access Plans – Sheet 7) from the southern access to the Cheshire Lounge Public House eastwards for a distance of 8 metres, then northwards for a distance of 82 metres to connect to existing footpath reference MILL FP10 and new footpath (Reference B);
  - (rr) the construction of a new footpath (Reference B - Rights of Way and Access Plans – Sheet 7) off the Bowdon Roundabout, from a point 54 metres south of its junction with the A56 Lymm Road, southwards for a total distance of 521 metres, parallel to the western boundary of the new A556 to connect to new footpath (Reference A); (Along the route of the new footpath Reference B, a new private means of access Reference 1 (which includes vehicular rights) is to be provided and, subject to that, that footpath is to be created);
  - (ss) the construction of a new culvert beneath the new access to Yarwoodheath Lane on the south of the improved M56 Junction 7/8;
  - (tt) the construction of a new culvert beneath the existing M56 eastbound on-slip road, the realigned M56 eastbound spur road, the re-aligned M56 westbound spur road and M56 westbound spur road off-slip road and construction of a new outfall from the new culvert with Birkin Brook;

- (uu) the re-modelling of the M56 Junction 7/8 eastbound diverge interchange link to accommodate the new M56 westbound spur road off-slip road;
- (vv) the construction of a new retaining wall to support a new access track and public footpath for Yarwoodheath Farm above the re-aligned M56 eastbound spur road;
- (ww) the construction of a new retaining wall to support the new M56 Spur Eastbound on-slip to the north of the link; and
- (xx) the construction of a new non-motorised user facility for pedestrians running between the western end of footpath reference MILL FP1 in a westerly direction for 44 metres to the edge of the re-aligned Chapel Lane.

Associated development within the meaning of section 115(2) of the 2008 Act, comprising:

**Work No. 1**

- (yy) the construction of new private means of access from C610 Old Hall Lane to private properties and privately owned fields to the east of the new A556;
- (zz) the construction of an extension of the existing outfall pipe (discharge from Tabley Services) to the unnamed watercourse feeding Tabley Brook at Over Tabley;
- (aaa) the construction of a new private means of access to field OS No. 0031, on the west of the proposed new Old Hall Lane (West) (Reference A), 546 metres north of the junction between C610 Old Hall Lane and the access to Over Tabley Hall Farm (Reference 1 - Rights of Way and Access Plans – Sheet 2);
- (bbb) the provision of replacement parking spaces for Tabley Parish Hall;
- (ccc) the provision of replacement parking spaces for St Paul’s Church, Tabley;
- (ddd) the construction of a new private means of access to field OS No. 0031, on the east of the proposed new Old Hall Lane (West) (Reference A), 211 metres south of the northern end of Old Hall Lane (West) (Reference 4 - Rights of Way and Access Plans – Sheet 2);
- (eee) the construction of a new private means of access to the new highway drainage attenuation and pollution control facility, west of the proposed new Old Hall Lane (West) (Reference A) and field OS No. 1280, 126 metres northeast of the junction between C610 Old Hall Lane and the access to Over Tabley Hall Farm (Reference 5 - Rights of Way and Access Plans – Sheet 2);
- (fff) the construction of a new private means of access to field OS No. 0031, on the south of the proposed Old Hall Lane (East) (Reference B), 205 metres east of the western end of Old Hall Lane (East) (Reference 8 - Rights of Way and Access Plans – Sheet 2);
- (ggg) the diversion of a watercourse (unnamed ditch) to the south of the new Old Hall Lane (East);
- (hhh) the construction of a new private means of access to field OS No. 0077 and field OS No. 0058, on the south of the improved UW2127 Bentley Hurst Lane, 180 metres east of its junction with the eastern access to Bentley Hurst Farm (Reference 1 - Rights of Way and Access Plans – Sheet 3);
- (iii) the construction of new private means of access from UW2127 Bentley Hurst Lane to private properties and privately owned fields to the west of the new A556;
- (jjj) the diversion of Tabley Brook to the west of the new A556 and to the south of the new highway drainage attenuation and pollution control facility;
- (kkk) the construction of new private means of access from the A50 to private properties and privately owned fields to the east and west of the new A556;
- (lll) the construction of a new culvert beneath re-aligned A50, east of the new A556 and the new A50 roundabout junction;
- (mmm) the construction of new private means of access from C113 Bucklow Hill Lane to private properties and privately owned fields to the east and west of the new A556;

- (nnn) the construction of new private means of access from C114 Chapel Lane to private properties and privately owned fields to the east and west of the new A556;
- (ooo) the construction of a new private means of access to field OS No. 9164 on the north of the improved C114 Chapel Lane, 346 metres north west of its junction with A556 Chester Road (Reference 4 - Rights of Way and Access Plans – Sheet 5);
- (ppp) the construction of new private means of access from C116 Millington Lane to private properties and privately owned fields to the west of the new A556;
- (qqq) the construction of a new access track from the M56 westbound carriageway to the new highway drainage attenuation pond to the west of the new A556 and south of the M56;
- (rrr) the construction of a new private means of access to field OS No. 4161, on the west of the Bowdon Roundabout Link, 48 metres south of its junction with Bowdon Roundabout (Reference 2 - Rights of Way and Access Plans – Sheet 7);
- (sss) the construction of a new private means of access to the new highway drainage attenuation and pollution control facility and field OS No. 6285, on the east of Bowdon Roundabout Link, 51 metres south of its junction with Bowdon Roundabout, north eastwards then south eastwards for a distance of 400 metres to join Yarwoodheath Farm Access Bridge (Reference 4 - Rights of Way and Access Plans – Sheet 7); and
- (ttt) the construction of a new access to Yarwoodheath Lane and privately owned fields on the south of the improved M56 Junction 7/8, and re-alignment of Yarwoodheath Lane.

**Work No. 2** — the re-location of the Driver and Vehicle Standards Agency Goods Vehicle Test Station from west of the existing A556 to the centre of Bowdon Roundabout.

**Work No. 3** — the improvement of the M6 southbound carriageway between M6 Junction 19 and the overbridge of the A5033 Northwich Road to include:

- (a) the construction of a new engineered earthworks slope to the north of the M6 southbound carriageway, but within the existing highway boundary;
- (b) relining of the southbound carriageway; and
- (c) associated highway works.

**Work No. 4** — the improvements associated with the de-trunking of the existing A556 Chester Road from M6 Junction 19 to the new Cherry Tree Lane link, including:

- (a) reducing the current road cross section to a rural type single carriageway road;
- (b) the construction of a new non-motorised user facility for pedestrians, cyclists and equestrian users, running between the new non-motorised user link from M6 Junction 19 and the new at grade junction at Millington Lane;
- (c) the construction of a low profile bund and landscaping to provide separation between the single carriageway road and the non-motorised user facility;
- (d) the construction of new access tracks and private means of access to adjacent lands and properties;
- (e) the construction of a new private means of access to field OS No. 3111 and field OS No. 2500, on the west of the new A556, 171 metres south of its junction with the improved C116 Millington Lane (Reference 2 - Rights of Way and Access Plans – Sheet 6); and
- (f) the construction of a new private means of access to field OS No. 4848, 46 metres north of the junction of the existing A556 Chester Road with C116 Millington Lane (Reference 5 - Rights of Way and Access Plans – Sheet 6).

**Work No. 5** — the diversion of 320 metres of gas transmission pipeline north of Old Hall Lane (West) and the new highway drainage attenuation and pollution control facility, including the erection of marker posts.

**Work No 6** — the diversion of 665 metres of oil pipeline from the south east of Chapel Lane diversion to the north west of Chapel Lane diversion.



**Work No. 7** — the diversion of 460 metres of water pipeline from A556 Chester Road at junction with Millington Lane to south of Mereside Farm.

and in connection with the construction of any of those works, further development within the Order limits consisting of:

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footway, cycle track or verge; and reducing the width of the carriageway of the street;
- (b) ramps, means of access, footpaths, bridleways, cycle tracks, embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, highway lighting, fencing and culverts;
- (c) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street; works to place or maintain apparatus in a street; works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance or reconstruction of any streets; and
- (h) such other works, including contractors' compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which fall within the scope of the environmental impact assessment.

## SCHEDULE 2 REQUIREMENTS

Article 3

### **Interpretation**

**1.** In this Schedule—

“CEMP” means the construction environmental management plan, being the EMP as approved prior to the construction of the authorised development;

“EMP” means the environmental management plan referred to in paragraph 4(1);

“environmental statement” means the document certified as the environmental statement under article 34 (certification of plans, etc.) for the purposes of this Order;

“European protected species” has the same meaning as in regulations 40 and 44 of the Conservation of Habitats and Species Regulations 2010(a); and

“HEMP” means the handover environmental management plan, being the EMP to be developed towards the end of the construction of the authorised development to 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 scheme; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies including Natural England.

### **Time limits**

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

### **Detailed design**

**3.—(1)** The authorised development must be carried out in accordance with the scheme design shown on the works plans, the structure drawings, the junction design drawings, the lighting drawings, the car parking drawings and the engineering drawings and sections, unless otherwise agreed in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its statutory powers, and provided the development so altered falls within the limits of deviation and within the envelope of the environmental statement referred to in article 34(1)(f) (certification of plans, etc.).

(2) Natural England must be consulted on the design of any structures that serve to mitigate or compensate for impacts on protected species referred to in paragraph 9.

### **Environmental management plan**

**4.—(1)** An EMP must be prepared and implemented for the purpose of managing the environmental effects of the authorised development.

(2) The EMP must include—

- (a) a written scheme for the investigation of areas of archaeological interest;

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(a) S.I. 2010/490, to which there are amendments not relevant to this Order.

- (b) management and maintenance information on cultural heritage assets;
- (c) a site waste management plan;
- (d) a materials management plan;
- (e) a landscape management plan;
- (f) a resources management plan; and
- (g) an ecological management plan.

(3) The authorised development must be constructed in accordance with the EMP.

(4) No authorised development must commence until a CEMP has been submitted to and approved in writing by the Secretary of State, in consultation with Natural England to the extent that it relates to protected species or protected sites and the relevant planning authority to the extent that it relates to methods for the control of nuisances and pollution.

(5) The CEMP must reflect the mitigation and compensation measures included in the environmental statement, and must include—

- (a) outline plans to address each of the matters to be included in the EMP;
- (b) measures to address control of noise, fumes, light, vibration and dust during construction;
- (c) measures to address site waste management;
- (d) restrictions on carrying out construction works close to the Rostherne Mere site of special scientific interest or the Rostherne Mere Ramsar site during the wintering bird season from the beginning of September to the end of February;
- (e) action plans, working methods and mitigation measures for each of the topics covered in the environmental statement; and
- (f) any additional mitigation or compensation measures relating to nationally or European protected species or habitats that are subsequently agreed with Natural England, which includes working methods and mitigation or compensation measures agreed through any protected species licence applications.

(6) The construction of the authorised development must be carried out in accordance with the CEMP.

(7) The Secretary of State may modify the CEMP at any time after the authorised development has commenced and must notify Natural England of any modifications as far as they relate to protected species or protected sites.

(8) Before the end of the construction of the authorised development the CEMP must be converted into the HEMP.

(9) The authorised development must be operated and maintained in accordance with the HEMP.

### **Implementation and maintenance of landscaping**

**5.**—(1) The authorised development must be landscaped in accordance with a landscaping scheme that has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The landscaping scheme must reflect the mitigation measures included in the environmental statement and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) details of existing trees to be retained, with measures for their protection during the construction period;

- (g) retained historic landscape features and proposals for restoration, where relevant; and
- (h) implementation timetables for all landscaping works.

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

(4) The landscaping works must be carried out in accordance with implementation timetables referred to in sub-paragraph (2).

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of two years after planting, dies or becomes, in the opinion of the Secretary of State, seriously 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 gives written consent to any variation.

## **Fencing**

6. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Highways Agency's Manual of Contract Documents for Highway Works, Volume 1 – Specification for Highway Works (consolidated edition, November 2005, as amended as at May 2014), except where any departures from that manual are agreed in writing by the Secretary of State.

## **Ecological mitigation**

7. Ecological mitigation of the authorised development with respect to protected species, including the provision of any mammal underpasses or tunnels, must be provided in accordance with the principles of guidance from the Highways Agency's Design Manual for Roads and Bridges, Volume 10, Section 4 (Volume 10, October 1994, as amended as at May 2014), as supported by additional guidance from the Institute of Ecology and Environmental Management, published ecological literature, and consultation with statutory and non-statutory nature conservation bodies, except where any departures from that guidance are agreed in writing by the Secretary of State, following consultation with Natural England.

## **Contaminated land and groundwater**

8.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported immediately to the relevant planning authority and the Environment Agency, and the Secretary of State must complete a risk assessment of the contamination.

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

(3) Remediation must be carried out in accordance with the approved scheme.

## **Protected species**

9.—(1) No authorised development is to commence until final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the relevant works or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Where a protected species is shown to be, or where there is a reasonable likelihood of it being, present, the relevant parts of the relevant works must not begin until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State after consultation with Natural England.

(3) The relevant works must be carried out in accordance with the approved scheme, and under licence where necessary, unless otherwise agreed by the Secretary of State, after consultation with Natural England.

(4) Monitoring of impacts on protected species and habitats prior to, during and after construction, together with the monitoring and management of mitigation measures, must be carried out as far as required to meet the licence requirements.

(5) In the event that any protected species are found at any time when carrying out the authorised development which were not previously identified in the environmental statement—

- (a) the finding must be reported immediately to Natural England; and
- (b) no activities requiring a protected species licence are to continue until a scheme of protection and mitigation measures for the protected species has been submitted in writing to, and approved in writing by, Natural England and the Secretary of State.

### **Surface water drainage**

**10.**—(1) No authorised development is to commence until written details of the surface and foul water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details.

### **Archaeological remains**

**11.**—(1) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be investigated and recorded and reported to the Secretary of State by means of a technical report identifying the location for the housing of any finds.

(2) No construction operations are to take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority.

(3) If the Secretary of State is of the view 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 first submitted in writing to, and approved in writing by, the Secretary of State.

### **Buildings at risk**

**12.** No authorised development is to commence in the vicinity of any buildings assessed to be at risk in the environmental statement or in the opinion of the relevant planning authority without first notifying the relevant planning authority.

### **Traffic management**

**13.**—(1) No authorised development is to commence until a traffic management plan has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The authorised development must be constructed in accordance with the approved details.

**14.** Work No. 4 must not be brought into use until the traffic authority, or the Secretary of State under the powers conferred by article 37 (traffic regulation), has carried out consultation on a proposed order under section 1 of the 1984 Act (traffic regulation orders outside Greater London) to restrict access by motorised vehicles to Work No. 4(b).

**15.** The headroom within the non-motorised user underpass at Old Hall Lane must not be less than 3 metres.

**Air quality**

16. The speed limit referred to in Part 5 of Schedule 3 (classification of roads, etc.) must remain in place until the results of air quality monitoring indicate that air quality has improved sufficiently to allow the speed limit to be raised to 70mph, pursuant to a monitoring strategy developed in consultation with the relevant planning authority.

**Amendments to approved details**

17. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved in writing.

## SCHEDULE 3

Article 10

### CLASSIFICATION OF ROADS ETC.

#### PART 1

##### SPECIAL ROADS

###### **In the administrative area of Cheshire East Council—**

1. A road constructed on a route, 871 metres in length, starting at a point 249 metres north by north east of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, proceeding initially in a north easterly direction, to a point 260 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, reference letter AA on the Special Roads Plan.

2. A road constructed on a route, 828 metres in length, starting at a point 256 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding initially in a north westerly direction, to a point 251 metres north by north east of a point forming the intersect of the centreline of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, reference letter BB on the Special Roads Plan.

3. A road constructed on a route, 619 metres in length, starting at a point 421 metres south by south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding initially in a north westerly direction, to a point 291 metres south of the junction between the centreline of the M56 Eastbound Spur On-Slip with Bowdon Roundabout, reference letter CC on the Special Roads Plan.

4. A road constructed on a route, 96 metres in length, starting at a point 280 metres south by south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding in a north westerly direction, to a point 186 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, reference letter DD on the Special Roads Plan.

#### PART 2

##### OTHER TRUNK ROADS

###### **In the administrative area of Cheshire East Council—**

5. A road constructed on a route, comprising the new A556 Trunk Road, between point A on sheet 2 of the engineering drawings and sections, being a point on the existing M6 Junction 19 roundabout and point B on sheet 7 of the engineering drawings and sections, being a point 250 metres north of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, for a distance of 6556 metres in a northerly direction.

6. A road constructed on a route, comprising the new Bowdon Roundabout Link Road, the circulatory carriageway of the new M56 J7/8 South Roundabout and the new A556 Southbound Merge Interchange Link, between point C on sheet 7 of the engineering drawings and sections, being a point on the existing Bowdon Roundabout highway boundary and point D on sheet 7 of

the engineering drawings and sections, being a point on the existing A556 highway boundary, 201 metres north of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, for a distance of 691 metres in a southerly then south westerly direction.

### PART 3

#### ROADS TO BE DE-TRUNKED

##### **In the administrative area of Cheshire East Council—**

7. The section of highway between point A on sheet 2 of the De-Trunking Plans, being a point 10 metres south of the junction between Old Hall Lane and the A556 Chester Road and point B on sheet 6 of the De-Trunking Plans, being a point 202 metres north of the junction between Millington Lane and the A556 Chester Road, for a distance of 5003 metres in a northerly direction.

### PART 4

#### ROADS SUBJECT TO 50 MPH SPEED LIMIT

8. The new A556 northbound carriageway continued into the new M56 Spur eastbound carriageway from a point 395 metres south of the southern abutment of Chester Road Bridge to a point 559 metres south east of the centre of Bowdon Roundabout, a distance of 1,418 metres.

9. The new M56 Spur westbound carriageway continued into the new A556 southbound carriageway from a point 827 metres south east of the centre of Bowdon Roundabout to a point 395 metres south of the southern abutment of Chester Road Bridge, a distance of 1,698 metres.

10. The new A556-A56 northbound off-slip from its junction with the new A556 and its junction with Bowdon Roundabout, a distance of 383 metres.

11. The new A556 southbound merge interchange link from its junction with the new M56 Junction 7/8 South Roundabout to its junction with the M56 westbound entry loop, a distance of 528 metres.

### PART 5

#### ROADS SUBJECT TO 60 MPH SPEED LIMIT

12. The new A556 from its junction with M6 Junction 19 to a point 395 metres south of the southern abutment of Chester Road Bridge.



SCHEDULE 4

Article 11

PERMANENT STOPPING UP OF STREETS

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
<b>Rights of Way and Access Plans – Sheet 2</b>			
<b>In the administrative area of Cheshire East Council—</b>	C610 Old Hall Lane	From a point 46 metres west of its junction with the existing A556 Chester Road, westwards to a point 20 metres east of the access to Over Tabley Hall Farm, a total distance of 182 metres.	Reference C – Rights of Way and Access Plans Sheet 2 = New bridleway from a point on the A556 Chester Road 13 metres south of its junction with C610 Old Hall Lane, generally westwards beneath the new trunk road, then northwards along the western boundary of the new trunk road, then westwards along the route of the stopped up C610 Old Hall Lane, to a new junction with the improved C610 Old Hall Lane, a total distance of 269 metres.
	A556 Chester Road	From a point 13 metres south of its junction with C610 Old Hall Lane, southwards for a distance of 45 metres.	Reference C – Rights of Way and Access Plans Sheet 2 (see above); and Reference D – Rights of Way and Access Plans Sheet 2 = New cycleway from a point in the verge of the M6 Junction 19 southbound exit slip, 10 metres west of its junction with the M6 Junction 19 circulatory carriageway, northwards along the

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
			western boundary of the new trunk road for a distance of 113 metres to join new bridleway Reference C.
	Reference a – Rights of Way and Access Plans Sheet 2 = Access to property known as Over Tabley Hall, on the north of C610 Old Hall Lane, 245 metres west of its junction with A556 Chester Road.	The whole access	Reference 2 – Rights of Way and Access Plans Sheet 2 = New private means of access to Over Tabley Hall in the same location as stopped up access Reference a, but realigned to the improved C610 Old Hall Lane
	Reference b – Rights of Way and Access Plans Sheet 2 = Access to property known as Over Tabley Hall Farm, on the north of C610 Old Hall Lane, 240m west of its junction with A556 Chester Road.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 2 = New private means of access to Over Tabley Hall Farm in the same location as stopped up access Reference b, but realigned to the improved C610 Old Hall Lane.
	Reference c – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 0070 on the south of C610 Old Hall Lane, 102 metres west of its junction with A556 Chester Road	The whole access	Reference 12 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 0070, on the south of the realigned C610 Old Hall Lane, 38 metres east of the access to Over Tabley Hall.
	Reference d – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 1280 and field OS No. 1691, on the north of C610 Old Hall Lane, 64 metres west of its junction with A556 Chester Road.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 2 (see above); and Reference 9 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 1691 and field OS No. 1500, on the west of A556 Chester Road, 30 metres south of the access to St Paul’s Church,

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
			generally westwards, for a distance of 70 metres.
	Reference e – Rights of Way and Access Plans Sheet 2 = Access to property known as Tabley Parish Hall, on the north of C610 Old Hall Lane, 48 metres west of its junction with A556 Chester Road.	The whole access	Reference 6 – Rights of Way and Access Plans Sheet 2 = New private means of access to Tabley Parish Hall on the north of C610 Old Hall Lane, 45 metres west of its junction with A556 Chester Road.
	Reference f – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 0070 on the south of C610 Old Hall Lane, 45 metres west of the junction of C610 Old Hall Lane with A556 Chester Road.	The whole access	Reference 12 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 0070, on the south of the realigned C610 Old Hall Lane 38 metres east of the access to Over Tabley Hall.
	Reference g – Rights of Way and Access Plans Sheet 2 = Access to the property known as Rose Cottage, on the north of C610 Old Hall Lane, 42 metres west of its junction with A556 Chester Road.	The whole access	Reference 7 – Rights of Way and Access Plans Sheet 2 = New private means of access to the property known as Rose Cottage on the north of C610 Old Hall Lane, 39 metres west of its junction with A556 Chester Road.
	Reference h – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 3843 and field OS No. 3351, west of A556 Chester Road, 220 metres north of the access to Church Farm.	The whole access	Reference 10 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 3437, on the south of Old Hall Lane (East), 128 metres west of the existing A556 Chester Road; and Reference 11 - Rights of way and Access Plans Sheet 2 = New private means of access to field OS No. 3351 & OS No. 3843 on the north of Old Hall

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
			Lane (East), 128 metres west of the Existing A556 Chester Road.

**Rights of Way and Access Plans – Sheet 3**

<b>In the administrative area of Cheshire East Council—</b>	UW2127 Bentley Hurst Lane	From a point 304 metres north east of its junction with the eastern access to Bentley Hurst Farm, northeastwards for a distance of 69 metres.	Reference A – Rights of Way and Access Plans Sheet 3 = New highway from a point on the improved UW2127 Bentley Hurst Lane 206 metres northeast of its junction with the eastern access to Bentley Hurst Farm, north eastwards for a distance of 232 metres to connect to the improved UW2127 Bentley Hurst Lane east of the new trunk road; to include the improvement of the existing UW2127 Bentley Hurst Lane, from a point 173 metres north east of its junction with the eastern access to Bentley Hurst Farm, north eastwards for a distance of 27 metres; and to include the improvement of the existing UW2127 Bentley Hurst Lane, from a point 557 metres west of its junction with the A556 Chester Road, south westwards for a distance of 28 metres.
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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Reference a – Rights of Way and Access Plans Sheet 3 = Access to field OS No. 0004, on the south of UW2127 Bentley Hurst Lane, 303 metres east of the junction of UW2127 Bentley Hurst Lane with the eastern access to Bentley Hurst Farm.	The whole access	Reference 2 – Rights of Way and Access Plans Sheet 3 = New private means of access to field OS No.0004 on the south of the improved UW2127 Bentley Hurst Lane, 193 metres east of its junction with the eastern access to Bentley Hurst Farm.

**Rights of Way and Access Plans – Sheet 4**

<b>In the administrative area of Cheshire East Council—</b>	A50	From a point 133 metres southeast of its junction with the eastern access to Hulme Barns Farm, south eastwards for a distance of 85 metres.	Reference A – Rights of Way and Access Plans Sheet 4 = New highway from a point on the improved A50, 74 metres south east of its junction with the western access to Hulme Barns Farm, south eastwards for a distance of 577 metres (including the roundabout circumference) to connect to the improved A50 south east of the new A556; to include the improvement of the existing A50 from a point 154 metres south east of its junction with UW2103 Hulse Heath Lane, south eastwards for a distance of 204 metres; and to include the improvement of the existing A50 from a point 134 metres south east of its junction with access to field OS No. 4523, north westwards for a distance of 201 metres.
	Reference a – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 0045 on the south west of the	The whole access	Reference 1 – Rights of Way and Access Plans Sheet 4 = New private means of access to the field OS No. 0045 on the south west of the

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	A50, 290 metres south east of its junction with UW2103 Hulse Heath Lane.		A50, opposite the access to Hulme Barn Farm, 169 metres east of the Post Office's eastern most access.
	Reference b – Rights of Way and Access Plans Sheet 4 = Western access to Hulme Barns Farm on the north east of the A50, 289 metres south east of its junction with UW2103 Hulse Heath Lane.	The whole access	Reference 2 – Rights of Way and Access Plans Sheet 4 = New private means of access to Hulme Barns Farm in the same location as stopped up access Reference b, but realigned to the improved A50.
	Reference d – Rights of Way and Access Plans Sheet 4 = Eastern access to Hulme Barns Farm on the north east of the A50, 441 metres south east of its junction with UW2103 Hulse Heath Lane.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 4 = New private means of access to Hulme Barns Farm in the same location as stopped up access Reference d, but realigned to the improved A50.
	Reference f – Rights of Way and Access Plans Sheet 4 = Access to the compound on the north of C113 Bucklow Hill Lane, 261 metres north east of its junction with the access to Hulme Barns Farm.	The whole access	Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 162 metres.
	Reference g – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 4619 on the north of C113 Bucklow Hill Lane, 290 metres north east of its junction with the access to Hulme Barns Farm.	The whole access	Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 184 metres.
	Reference h – Rights of Way and Access Plans Sheet 4 = Access to the field	The whole access	Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	OS No. 5000 on the south of C113 Bucklow Hill Lane, 290 metres north east of its junction with the access to Hulme Barns Farm.		compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 184 metres; and Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900 field OS No.5000 and telecommunications site on the east of the proposed new A556.
	Reference i – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 4523 on the northeast of the A50, 450 metres south east of its junction with the eastern access to Hulme Barns Farm.	The whole access	Reference 5 – Rights of Way and Access Plans Sheet 4 = New private means of access to the field OS No. 4523 in the same location as stopped up access Reference i, but realigned to the improved A50.
	Reference j – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 5600 on the east of the improved A50, 555 metres south east of its junction with the eastern access to Hulme Barns Farm.	The whole access	Reference 6 – Rights of Way and Access Plans Sheet 4 = New private means of access to field OS No. 5600 in the same location as stopped up access Reference j, but realigned to the improved A50.
<b>Rights of Way and Access Plans – Sheet 5</b>			
<b>In the administrative area of Cheshire East Council —</b>	C114 Chapel Lane	From a point 441 metres northwest of its junction with A556 Chester Road, north westwards for a distance of 69 metres.	Reference A – Rights of Way and Access Plans Sheet 5 = New highway from a point on the improved C114 Chapel Lane 443 metres northwest of its junction with A556 Chester Road, north westwards for a distance of 74 metres to connect to the improved C114

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
			Chapel Lane; to include the improvement of the existing C114 Chapel Lane, from a point 108 metres southeast of its junction with UW2103 Hulse Heath Lane, south eastwards for a distance of 284 metres; and to include the improvement of the existing C114 Chapel Lane, from a point 305 metres north west of its junction with A556 Chester Road, north westwards for a distance of 139 metres.
	Reference a – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 6877 on the north of C114 Chapel Lane, 651 metres north west of its junction with A556 Chester Road.	The whole access	Reference 1 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS no. 6877 on the north of C114 Chapel Lane, 698 metres north west of its junction with A556 Chester Road.
	Reference b – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 4619 on the north of C113 Bucklow Hill Lane, 413 metres west of its junction with A556 Chester Road.	The whole access	Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900, field OS No. 5000 and telecommunications site on the east of the proposed new A556; and Reference 7 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 9424, on the north of C113 Bucklow Hill Lane, 52 metres west of access to Maltkiln House.
	Reference d – Rights	The whole access	Reference 2 – Rights



<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New street to be substituted</i>
	of Way and Access Plans Sheet 5 = Access to field OS No. 6900 on the south of C113 Bucklow Hill Lane, 368 metres west of its junction with A556 Chester Road.		of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900, field OS No. 5000 and telecommunications site on the east of the proposed new A556; and Reference 7 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 9424, on the north of C113 Bucklow Hill Lane, 52m west of access to Maltkiln House.
	Reference e – Rights of Way and Access Plans Sheet 5 = Access to the property known as Thornedge on the south of C114 Chapel Lane, 371 metres north west of its junction with A556 Chester Road.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 5 = New private means of access to the property known as Thornedge on the south of the improved C114 Chapel Lane, in the same location as stopped up access Ref. e, but realigned to the improved C114 Chapel Lane
	Reference f – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 9164 on the south of UW2104 Millington Hall Lane, 295 metres west of its junction with A556 Chester Road.	The whole access	Reference 6 – Rights of Way and Access Plans Sheet 5 = New private means of access between fields OS No. 9164 on the south of UW2104 Millington Hall Lane and field OS No. 1284 on the north of UW2104 Millington Hall Lane, 200 metres north west of the junction between UW2104 Millington Hall Lane and A556 Chester Road, northwards for a distance of 25 metres.

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Reference g – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 0005 and field OS No. 1284, on the north of UW2104 Millington Hall Lane, 224 metres north west of its junction with A556 Chester Road.	The whole access	Reference 5 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 0005 on the north of UW2104 Millington Hall Lane, 357 metres north west of its junction with A556 Chester Road; and Reference 6 – Rights of Way and Access Plans Sheet 5 (see above)
	Reference c – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 5451 on the south of C114 Chapel Lane, 494 metres north west of its junction with A556 Chester Road.	The whole access	Reference 8 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 4263 & OS No. 5451 on south of C114 Chapel Lane, 86m east of junction with UW2103 Hulse Heath Lane; Reference 9 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 4263 & OS No. 5451 on south of C114 Chapel Lane, 185 metres east of junction with UW2103 Hulse Heath Lane; and Reference 10 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 7133, via private means of access (Reference 3) on south of C114 Chapel Lane, 120 metres west of Crescent Road
<b>Rights of Way and Access Plans – Sheet 6</b>			
<b>In the administrative area of Cheshire East Council—</b>	Part of footpath MILL FP6	From a point 13 metres west of its junction with MILL FP7, eastwards to its	Reference A – Rights of Way and Access Plans Sheet 6 = New footpath for MILL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
		junction with MILL FP7.	FP6 and MILL FP7, from a point 269 metres south of the access to Newhall Cottages, generally northwards for a distance of 571 metres.
	Part of footpath MILL FP7	From a point 152 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane, generally westwards for a distance of 52 metres to its junction with MILL FP6, then generally in a north westerly direction for a distance of 63 metres.	Reference A – Rights of Way and Access Plans Sheet 6 (see above)
	C116 Millington Lane	From a point 40 metres northwest of its junction with the A556 Chester Road, north westwards for a distance of 60 metres.	Reference B – Rights of Way and Access Plans Sheet 6 = New highway from a point on the improved C116 Millington Lane, about 88 metres east of the access to Newhall Farm, generally eastwards for a distance of 162 metres, to connect to the improved C116 Millington Lane; to include the improvement of the existing C116 Millington Lane from a point 47 metres east of the access to Newhall Farm, eastwards for a distance of 46 metres; and to include the improvement of the existing C116 Millington Lane from its junction with the A556 Chester Road, westwards for a distance of 26 metres.

<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New street to be substituted</i>
	A556 Chester Road	Eastern half width from a point 205 metres north of its junction with C116 Millington Lane, northwards for a distance of 524 metres, to its junction with UW2089 Cherry Tree Lane.	Reference C – Rights of Way and Access Plans Sheet 6 = New highway from a point on the existing A556 Chester Road 205 metres north of its junction with C116 Millington Lane, northwards for a distance of 524 metres to connect to UW2089 Cherry Tree Lane; to include the improvement of the existing UW2089 Cherry Tree Lane at its junction with the A556 Chester Road, eastwards for a distance of 67 metres.
	Reference a – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 4848, on the north of C116 Millington Lane, 160 metres west of its junction with A556 Chester Road.	The whole access	Reference 1 – Rights of Way and Access Plans Sheet 6 = New private means of access to field OS No. 4848, on the north of the improved C116 Millington Lane, 160 metres west of its junction with A556 Chester Road.
	Reference c – Rights of Way and Access Plans Sheet 6 = Access to Bucklow Manor Nursing Home, on the south of C116 Millington Lane, 46 metres west of its junction with A556 Chester Road.	The whole access	Reference 4 – Rights of Way and Access Plans Sheet 6 = New private means of access to Bucklow Manor Nursing Home, west of A556 Chester Road, 113 metres south of its junction with the improved C116 Millington Lane.
	Reference d – Rights of Way and Access Plans Sheet 6 = Access to Newhall Cottages on the west of A556 Chester Road 321 metres north of the junction of A556 Chester	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
	Road with C116 Millington Lane.		the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres.
	Reference e – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 6173, on the west of A556 Chester Road, 175 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres.
	Reference f – Rights of Way and Access Plans Sheet 6 = Access to Mereside Farm on the west of A556 Chester Road, 79 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres.
	Reference g – Rights of Way and Access Plans Sheet 6 = Access to Mereside Farm on the west of A556 Chester Road, opposite the junction of A556 Chester Road with UW2089 Cherry Tree Lane.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
			metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres.

**Rights of Way and Access Plans – Sheet 7**

<b>In the administrative area of Cheshire East Council —</b>	Footpath ROS FP9	From its junction with Yardwoodheath Lane, generally north eastwards for a distance of 552 metres to a point 18 metres southwest of Yarwoodheath Farm Access Bridge.	Reference C – Rights of Way and Access Plans Sheet 7 = New footpath from a point on the eastern boundary of Bowdon Roundabout Link 60 metres south of its junction with Bowdon Roundabout, generally south eastwards for a distance of 401 metres to join existing footpath ref. ROS FP9.
	Footpath ROS FP13	From its junction with the A556 Chester Road, generally south eastwards for a distance of 744 metres to its junction with Tom Lane.	Reference D – Rights of Way and Access Plans Sheet 7 = New cycle track (which, for the avoidance of doubt, includes a right of way on foot) from the M56 J7/8 South Roundabout, southwards for a distance of 525 metres along the route of the re-aligned Yarwoodheath Lane, to the junction of Yarwoodheath Lane and Tom Lane.
	Reference a – Rights of Way and Access Plans Sheet 7 = Access to The Cheshire Lounge Public House on the western boundary of the A556 Chester Road, 46 metres north from the northern boundary of M56.	The whole access	Reference 1 – Rights of Way and Access Plans Sheet 7 = New private means of access for The Cheshire Lounge Public House and field OS No. 0643, on the south of A56 Lymm Road 172 metres west of its junction with Bowdon Roundabout,

<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New street to be substituted</i>
			eastwards then southwards for a total distance of 707 metres.
	Reference b – Rights of Way and Access Plans Sheet 7 = Access to The Cheshire Lounge Public House on the western boundary of the A556 Chester Road, 68 metres north from the northern boundary of M56	The whole access	Reference 1 – Rights of Way and Access Plans Sheet 7 (see above).
	Reference c – Rights of Way and Access Plans Sheet 7 = Access to field OS No. 0643, on the western boundary of the A556 Chester Road, 180 metres north from the northern boundary of M56.	The whole access	Reference 1 – Rights of Way and Access Plans Sheet 7 (see above).
	Reference d – Rights of Way and Access Plans Sheet 7 = Access to Yarwoodheath Lane and Yarwoodheath Farm from its junction with the A556 Chester Road.	The whole access	Reference 3 – Rights of Way and Access Plans Sheet 7 = New private means of access to Yarwoodheath Lane and Yarwoodheath Farm at the junction of the re-aligned Yarwoodheath Lane with M56 Junction 7/8 South Roundabout.

## PART 2

### STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
<b>Rights of Way and Access Plans – Sheet 4</b>		
<b>In the administrative area of Cheshire East Council—</b>	C113 Bucklow Hill Lane	From a point 179 metres northeast of its junction with the access to Hulme Barns Farm, north eastwards for a distance of 183 metres.
	Reference c – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 2527 on the south west of the A50, 354 metres south east of its junction with UW2103 Hulse Heath Lane.	The whole access
	Reference e – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 3746 on the north east of the A50, 481 metres south east of its junction with UW2103 Hulse Heath Lane.	The whole access
<b>Rights of Way and Access Plans – Sheet 5</b>		
<b>In the administrative area of Cheshire East Council—</b>	C113 Bucklow Hill Lane	From a point 217 metres west of its junction with the A556 Chester Road, south westwards for a distance of 439 metres.
	UW2104 Millington Hall Lane	From a point 143 metres northwest of its junction with the A556 Chester Road, north westwards for a distance of 141 metres.
	Reference h – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 2500, on the west of A556 Chester Road, 132 metres north of its junction with UW2104 Millington Hall Lane.	The whole access
<b>Rights of Way and Access Plans – Sheet 6</b>		
<b>In the administrative area of Cheshire East Council—</b>	Reference b – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 3930 on the south of C116 Millington Lane, 100 metres west of its junction with A556 Chester Road.	The whole access
<b>Rights of Way and Access Plans – Sheet 7</b>		



<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
<b>In the administrative area of Cheshire East Council—</b>	A556 Chester Road	Part of western width of the A556 Chester Road from the northern boundary of M56, northwards for a distance of 223 metres.
	M56 to A556 Spur	Part of southern width of the M56 to A556 Spur from a point 32 metres east of Bowdon roundabout, south eastwards for a distance of 330 metres.

SCHEDULE 5

Article 20

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

<i>(1)</i> <i>Plot Reference Number</i> <i>shown on Land Plans</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>
<b>Land Plans - Sheet 2</b>	
2/1b	New right for the construction, inspection and maintenance of a new highway drainage outfall pipe and headwall to Tabley Brook for the benefit of the Secretary of State.
2/1i	New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited.
2/2h	New right for the construction, inspection and maintenance of an unnamed watercourse diversion for the benefit of the Secretary of State.
2/2i	New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited.
2/4e	New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited.
2/4h	New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited.
2/8b	New right for the construction, inspection and maintenance of an unnamed watercourse diversion for the benefit of the Secretary of State.
2/9c	New right for the construction, inspection and maintenance of the new Tabley Parish Hall retaining wall for the benefit of the Secretary of State.
<b>Land Plans - Sheet 3</b>	
3/1c	New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State.
3/1e	New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State.
3/1h	New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge and access track for the benefit of the Secretary of State.

<i>(1)</i> <i>Plot Reference Number shown on Land Plans</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>
3/1i	New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge access track for the benefit of the Secretary of State.
3/1m	New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge and access track for the benefit of the Secretary of State.
3/2b	New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State.
3/2d	New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State.
3/2l	New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge access track for the benefit of the Secretary of State.
3/2m	New right for the construction, inspection and maintenance of a new ditch for the diversion of an unnamed watercourse to Tabley Brook for the benefit of the Secretary of State.
<b>Land Plans - Sheet 5</b>	
5/1c	New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited.
5/1i	New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited.
5/3b	New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited.
5/3d and 5/3h	New rights for the construction, inspection and maintenance of an earth bund and associated planting, ecological mitigation, landscaping and drainage infrastructure for the benefit of the Secretary of State, and restrictions on the existing landowner as to altering ground levels, building structures and interfering with structures installed as part of the authorised development.
5/4b	New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited.
<b>Land Plans - Sheet 6</b>	
6/1k, 6/1o, 6/1u and 6/1z	New rights for creation of a public right of way and private rights of way and for it to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance

<i>(1)</i> <i>Plot Reference Number</i> <i>shown on Land Plans</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>
6/1m and 6/1v	New rights for the creation of a public right of way and private rights of way and for it to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State, a new right for the construction, inspection and maintenance of a buried pipeline and equipment for the benefit of United Utilities Water plc, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance
6/1n	New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc.
6/1r	New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc.
6/1x	New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc.
6/3b	New right for the construction, inspection, maintenance and protection of a new engineered earthworks slope for the benefit of the Secretary of State.
6/6a	New right for the construction, inspection and maintenance of the new Cherry Tree Lane retaining wall for the benefit of Cheshire East Council.
<b>Land Plans - Sheet 7</b>	
7/4m, 7/4p, 7/4q, 7/4r, 7/4s, 7/4t, 7/4u, 7/4v, 7/4w, 7/4x, 7/4y, 7/4z, 7/4aa, and 7/4ab	New rights for the creation of a public right of way and for it and associated drainage to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance.
7/4ag	New right for the construction, inspection and maintenance of a new highway drainage outfall pipe, headwall and overflow channel/pipe to the River Bollin for the benefit of the Secretary of State.
7/4ak	New right for the construction, inspection and maintenance of a new retaining wall and construction, inspection and maintenance of a new culvert and highway drainage outfall to Birkin Brook for the benefit of the Secretary of State.
7/4al	New right for the construction, inspection and maintenance of a new culvert and highway drainage outfall to Birkin Brook for the benefit of the Secretary of State.
7/4an	New right for the construction, inspection and maintenance of a new retaining wall for the benefit of the Secretary of State.
7/6a	New right for the construction, inspection and maintenance of a new highway drainage outfall pipe, headwall and overflow channel/pipe to the River Bollin for the benefit of the Secretary of State.
7/6d	New right for the construction, inspection and maintenance of a new retaining wall for the benefit of the Secretary of State.

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

*Compensation enactments*

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

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

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

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

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

“(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

- (a) a right over or a restrictive covenant affecting land consisting of a house, building or manufactory can be taken or imposed without material detriment or damage to the house, building or manufactory; or
- (b) a right over or a restrictive covenant affecting land consisting of a park or garden belonging to a house can be taken or imposed without seriously affecting the amenity or convenience of the house,

the Upper Tribunal must take into account not only the effect of the acquisition of the right or imposition of the restrictive covenant but also the use to be made of the right or restrictive covenant proposed to be acquired or imposed, and, in a case where the right or restrictive covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.”.

*Application of the 1965 Act*

3.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

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(a) 1973 c. 26.  
 (b) Section 58(1) was amended by section 16(3) of, and Schedule 5 to, the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66), section 4 of, and paragraph 29(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed;  
or
- (b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restrictive covenant, with the modifications specified in the following provisions of this Schedule.

**4.** For section 7 of the 1965 Act (measure of compensation) substitute—

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

**5.** For section 8 of the 1965 Act (provisions as to divided land) substitute—

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

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014<sup>(a)</sup> (“the Order”), in relation to that person, ceases to authorise the purchase of the right or imposition of the restrictive covenant and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

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

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

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(a) S.I. 2014/2269.

**6.** The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

**7.** Section 11(a) of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

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

**9.** Section 22 of the 1965 Act (interests omitted from purchase) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.
  - (b) Section 12 was amended by section 56(2) of, and part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
  - (c) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
  - (d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

SCHEDULE 7

Article 26

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet 1</b>			
<b>In the administrative area of Cheshire East Council—</b>	1/1a, 1/1b & 1/2	Required to enable the improvement of the M6 southbound carriageway between M6 Junction 19 and Knutsford Services. This includes localised pavement widening within the highway boundary, provision of a new southbound merge layout from M6 junction 19 and other associated highway works.	Work No. 3
<b>Land Plans – Sheet 2</b>			
<b>In the administrative area of Cheshire East Council—</b>	2/1f, 2/2f, 2/4c, 2/4f and 2/4j  2/1j, 2/1l and 2/4k  2/2d and 2/4a  2/2b, 2/2g and 2/8e  2/2j, 2/6f, 2/7c, 2/8f, 2/8g and 2/8h  2/3b, 2/3c, 2/5b (part), 2/10a and 2/10b (part)  2/3d, 2/5b (part), 2/5c, 2/10b (part) and 2/10d	Required to provide working space for the new A556 Trunk Road, top soil storage areas and material storage.  Required to provide working space for the gas main diversion, top soil storage areas and material storage.  Required to provide a temporary drainage and attenuation facility.  Required to enable the construction of new private means of access.  Required to enable the construction of new private means of access  Required to enable the improvements to M6 J19, part of the de-trunking of the existing A556 Trunk Road and the stopping up of the existing A556 Trunk Road at its junction with M6 Junction 19 to enable the construction of a new non-motorised user link.  Required to enable works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility.	Work No. 1 and Work No. 5  Work No. 5  All works  Work No. 1  Work No. 1 and Work No. 4  Work No. 1  Work No. 4



<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
	2/4l	Required to enable the construction of new private means of access.	Work No. 4(d)
	2/4m	Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains gas pipeline.	Work No. 1 and Work No. 5
	2/8d	Required as part of the works associated with the de-trunking of the A556 to include material storage.	Work No. 4
	2/1h, 2/2e, 2/4d and 2/4g	Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains gas pipeline.	Work No. 5

#### **Land Plans – Sheet 3**

<b>In the administrative area of Cheshire East Council—</b>	3/1a (part), 3/1n and 3/2o	Required to provide working space, top soil storage areas and material storage.	Work No. 1
	3/1a (part)	Required to provide a temporary drainage and attenuation facility.	Work No. 1
	3/1d	Required as a structure laydown area for the construction of the new Green / Accommodation Overbridge.	Work No. 1(q), (r) and (s)
	3/2e, 3/2g, 3/2q, 3/2r and 3/2s	Required to enable the construction of a new private means of access.	Work No. 1
	3/2p and 3/7	Required to enable the construction of new private means of access.	Work No. 4
	3/3c, 3/3d, 3/4, 3/5 and 3/6	Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility, the construction of bunding between the single carriageway road and non-motorised user facility and the improvement of the Mere Crossroads junction with the A50.	Work No. 4

#### **Land Plans – Sheet 4**

<b>In the administrative area of Cheshire East Council—</b>	4/7e, 4/7f and 4/7g	Required to enable the construction of new private means of access.	Work No. 4
	4/4l	Required to provide working space, top soil storage areas and material storage.	Work No. 1
	4/4e, 4/4j, and 4/4m	Required to provide working space, top soil storage areas and material storage.	All works

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
	4/4i  4/2d, 4/2l, 4/4a, 4/4b, 4/4o, 4/4r and 4/7a  4/1d and 4/9	Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and works vehicles, storage of plant, material and top soil and the treatment of site-generated waste.  Required to enable the construction of new private means of access.  Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility, the construction of bunding between the single carriageway road and non-motorised user facility and alterations to the A50.	All works  Work No. 1  Work No. 4

**Land Plans – Sheet 5**

<b>In the administrative area of Cheshire East Council—</b>	5/1e	Required to provide working space, top soil storage areas and material storage.	Work No. 1 and Work No. 6
	5/1j	Required as a structure laydown area for the construction of the new Chapel Lane Overbridge.	Work No. 1(x) and (y)
	5/1p	Required to enable the construction of new private means of access.	Work No. 1 and Work No. 4
	5/3j, 5/3m, 5/3n, 5/3o and 5/3p	Required to enable the construction of new private means of access.	Work No. 1
	5/2e, 5/2f, 5/2h, 5/2i and 5/6a	Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility.	Work No. 4

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
	5/1b, 5/1d, 5/1h, 5/3a, 5/3c and 5/4a	Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing multi-product pipeline.	Work No. 6

**Land Plans – Sheet 6**

<b>In the administrative area of Cheshire East Council—</b>	6/1c and 6/1d	Required to provide working space, top soil storage areas and material storage.	Work No. 1 and Work No. 4
	6/1a, 6/1aa and 6/3d	Required to enable the construction of new private means of access.	Work No. 1
	6/3e	Required to enable the construction of a new temporary private means of access.	Work No. 1
	6/6b	Required to provide working space to construct a new retaining wall.	Work No. 1(ii)
	6/1f	Required as a structure laydown area for the construction of the new Millington Lane Overbridge.	Work No. 1(ff) and Work No. 7
	6/2c and 6/4a	Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility.	Work No. 4
	6/1l, 6/1p, 6/1q, 6/1s, 6/1w and 6/1y	Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains water pipeline.	Work No. 7
6/3g	Required to provide working space to construct a new engineered earthworks slope on the east of new A556 and adjacent to Bucklow Manor	Work No. 1(dd)	

**Land Plans – Sheet 7**

<b>In the administrative area of Cheshire East Council—</b>	7/1a	Required to provide working space, top soil storage areas and material storage.	Work No. 1 and Work No. 7
	7/1b, 7/4c, 7/4g, 7/4h, 7/4i, 7/4k, 7/4l, 7/4n and 7/4ah	Required to provide working space, top soil storage areas and material storage.	Work No. 1
	7/1d, 7/1h and 7/1l	Required to provide working space, top soil storage areas and material storage.	All works

<i>(1) Location</i>	<i>(2) Plot Reference Number(s) shown on Land Plans</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Relevant part of the authorised development</i>
	7/1e	Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and works vehicles, storage of plant, material and top soil and the treatment of site-generated waste.	All works
	7/4j, 7/4ac, 7/4ad and 7/4ae 7/4f	Required to enable the construction of new private means of access. Required as a structure laydown area for the construction of the new Bowdon Roundabout Link Overbridge.	Work No. 1  Work No. 1(mm)
	7/2a, 7/2d, 7/2e and 7/3b	Required to enable the improvement of the M56 westbound carriageway and merge from the A556, in the vicinity of the existing Chester Road Bridge. This would include relining of the carriageway and temporary traffic management and temporary alterations to the M56.	Work No. 1
	7/2k	Required to enable the improvement of the M56 eastbound diverge at Junction 7/8. This would include relining of the carriageway.	Work No. 1

## PROTECTIVE PROVISIONS

## PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, OIL, WATER AND  
SEWERAGE UNDERTAKERS

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

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(c); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act(d),

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works; and

- (e) in the case of Mainline Pipelines Limited, company number 00995545, whose registered office is at 11 Old Jewry, London EC2R 8DU, any oil apparatus,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

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- (a) 1989 c. 29. The definition of “electrical plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).
  - (b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Schedule 6, and Schedule 8, to, the Utilities Act 2000 (c. 27), sections 149(1) and (5) and 197(9) of, and part 1 of Schedule 23 to, the Energy Act 2004 (c. 20) and S.I. 2011/2704.
  - (c) 1991 c. 56.
  - (d) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003. Section 104 was amended by sections 96(4) and 101(2) of, and part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c. 29).

“oil apparatus” means any pipe-line, apparatus and works as described in section 65(2) of the Pipe-lines Act 1962(a) (meaning of “pipe-line”) and all protective wrappings, sleeves and slabs, together with ancillary cables and markers; and such legal interest, and benefit of property rights and covenants as are vested in Mainline Pipelines Limited in respect of such items;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
  - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
  - (c) a water undertaker within the meaning of the Water Industry Act 1991;
  - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991; and
  - (e) Mainline Pipelines Limited and its successors in title and function,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

#### *On street apparatus*

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

#### *Apparatus in stopped up streets*

4.—(1) Where any street is stopped up under article 11 (permanent stopping up of streets), any undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the Secretary of State must grant to the undertaker legal easements reasonably satisfactory to the undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the Secretary of State or of the undertaker to require the removal of that apparatus under paragraph 7 or the power of the Secretary of State to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 12 (temporary stopping up of streets), an undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

#### *Protective works to buildings*

5. The Secretary of State, in the case of the powers conferred by article 16 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

#### *Acquisition of land*

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

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(a) 1962 c. 58. Section 65(2) was amended by paragraphs 1 and 6 of Schedule 2 to the Energy Act 2011 (c. 16), S.I. 2000/1937 and S.I. 2011/2305.

*Removal of apparatus*

7.—(1) If, in the exercise of the powers conferred by this Order, the Secretary of State acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of an undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the Secretary of State requires the removal of any apparatus placed in that land, the Secretary of State must give to the undertaker in question 56 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the Secretary of State must, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the Secretary of State and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the Secretary of State, or the Secretary of State is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed—

- (a) in the case of an undertaker other than Mainline Pipelines Limited the undertaker must, on receipt of a written notice to that effect from the Secretary of State, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed; or
- (b) in the case of Mainline Pipelines Limited, the Secretary of State must afford to and, if necessary, acquire for the benefit of Mainline Pipelines Limited the necessary facilities and rights (equivalent to those currently enjoyed by Mainline Pipelines Limited) for the construction, maintenance and use of the alternative apparatus and access to it.

(4) Any alternative apparatus to be constructed in land of the Secretary of State under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and the Secretary of State or in default of agreement settled by arbitration in accordance with article 36 (arbitration).

(5) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 36, and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the Secretary of State to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the Secretary of State gives notice in writing to the undertaker in question that the Secretary of State intends to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the Secretary of State, that work, instead of being executed by the undertaker, must be executed by the Secretary of State without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) Nothing in sub-paragraph (6) authorises the Secretary of State to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within—

- (a) 300 millimetres of apparatus other than oil apparatus; and
- (b) 3000 millimetres of oil apparatus.

(8) Sub-paragraphs (6) and (7) apply to Mainline Pipelines Limited and its apparatus only if it fails to comply with its obligations under sub-paragraph (5).

*Facilities and rights for alternative apparatus*

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the Secretary of State affords to an undertaker facilities and rights for the construction and maintenance in land of the Secretary of State of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the Secretary of State and the undertaker in question or in default of agreement settled by arbitration in accordance with article 36 (arbitration).

(2) If the facilities and rights to be afforded by the Secretary of State in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the Secretary of State to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

*Retained apparatus*

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the Secretary of State under paragraph 7(2), the Secretary of State must submit to the undertaker in question a plan of the works to be executed.

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

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

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

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

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

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

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



(8) In relation to works which will or may be situated on, over, under or within 30 metres measured in any direction of any electricity apparatus, or involve embankment works within 30 metres of any electricity apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) must be detailed including a material statement and describing—

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

#### *Expenses and costs*

**10.**—(1) Subject to the following provisions of this paragraph, the Secretary of State must repay to an undertaker all expenses reasonably incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2), including any costs reasonably incurred in connection with the acquisition of rights under paragraph 7(3), and in watching and inspecting the execution of works under paragraph 9(2) and in making reasonable requirements under paragraph 9(3).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Secretary of State or, in default of agreement, is not determined by arbitration in accordance with article 36 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**11.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of the authorised development or any such works referred to in paragraphs 5, 7(2), or 9(1), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not

reasonably necessary in view of its intended removal for the purposes of those works) or property of an undertaker, or there is any interruption in any service provided or of any access to any apparatus, or in the supply of any goods, by any undertaker, the Secretary of State must—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

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

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

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

(4) An undertaker must give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the Secretary of State who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### *Cooperation*

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

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

## PART 2

### FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

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

**15.** In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A)(b) of that code;

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(a) 2003 c. 21.

(b) Paragraph 1(3A) was inserted by section 106(2) of, and paragraphs 1 and 4 of Schedule 3 to, the Communications Act 2003.

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act<sup>(a)</sup>;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

**16.** The exercise of the powers conferred by article 27 (statutory undertakers) is subject to paragraph 23 of Schedule 2 to the Telecommunication Act 1984<sup>(b)</sup> (undertaker’s works).

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

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the Secretary of State must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

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

(3) The operator must give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the Secretary of State who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the Secretary of State and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 36 (arbitration).

**18.** This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the Secretary of State and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

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

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(a) See section 106.

(b) 1984 c. 12. Paragraph 23 was amended by section 190 of, and paragraph 68 of Schedule 25 and part 1 of Schedule 27 to, the Water Act 1989 (c. 15), section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and section 106(2) of, and paragraphs 1, 5(d) and 8 of Schedule 3 to, the Communications Act 2003.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises the Secretary of State to construct a dual carriageway between the M6 and M56 to be known as the A556 and carry out all associated works.

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

The Order also makes provision in connection with the maintenance of the new section of highway.

A copy of the plans, engineering drawings and sections and the book of reference and environmental statement mentioned in this Order and certified in accordance with article 34 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at the Highways Agency, Piccadilly Gate, Store Street, Manchester M1 2WD.

The Highways Agency's Manual of Contract Documents and Design Manual for Roads and Bridges are available at [www.dft.gov.uk/ha/standards](http://www.dft.gov.uk/ha/standards).

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