

SCHEDULES

SCHEDULE 2

Article 4(1)

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1.—(1) In this Schedule the following expressions have the following meanings—

“the archaeological written scheme of investigation” means the document of that description referenced in Schedule 15 (documents to be certified) certified by the Secretary of State as the archaeological written scheme of investigation for the purposes of this Order;

“the code of construction practice” means a code of construction practice approved under paragraph 73 of this Schedule;

“the county planning authority” means Norfolk County Council in its capacity as county planning authority for the county of Norfolk under section 1(1)(a) (local planning authorities: general) of the 1990 Act;

“the drainage strategy” means the document of that description referenced in Schedule 15 (documents to be certified) certified by the Secretary of State as the drainage strategy for the purposes of this Order;

“the IDB” means the Waveney, Lower Yare and Lothingland Internal Drainage Board;

“the lead local flood authority” means Norfolk County Council in its capacity as lead local flood authority under section 6(7) (other definitions) of the Flood and Water Management Act 2010(1);

“the outline code of construction practice” means the document of that description referenced in Schedule 15 (documents to be certified) certified by the Secretary of State as the outline code of construction practice for the purposes of this Order;

“the landscaping plans” means the plans of that description referenced in Schedule 15 (documents to be certified) certified by the Secretary of State as the landscaping plans for the purposes of this Order;

“the lighting report” means the document of that description referenced in Schedule 15 (documents to be certified) certified by the Secretary of State as the lighting report for the purposes of this Order; and

“the preliminary navigation risk assessment” means the document of that description referenced in Schedule 15 (documents to be certified) certified by the Secretary of State as the preliminary navigation risk assessment for the purposes of this Order.

(1) 2010 c. 29.

Status: This is the original version (as it was originally made).

Time limits

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

Commencement of the authorised development

3. Notice of commencement of the authorised development must be given to the county planning authority in writing within 7 days of the date that the authorised development is commenced.

Design of the authorised development

4. The authorised development must be designed and implemented in general accordance with—
- (a) the general arrangement plan; and
 - (b) the approach to detailed design.

Detailed design of specified structures

5. Construction of each part of the authorised development specified in column (1) of the table below must not commence until the details of the elements specified in relation to that part in column (2) of that table have been submitted to, and following consultation with Great Yarmouth Borough Council, approved in writing by the county planning authority.

<i>(1)</i>	<i>(2)</i>
<i>Part of the authorised development</i>	<i>Elements to be approved</i>
Work No. 7A(i)	The external appearance of the control tower
Work No.7B(i)	The external appearance of the plant room
Work No.8A(iv)	The finish and external materials of the bridge deck
Work No. 8B(i)	The finish and external materials of the bridge deck
Work No. 8C(iv)	The finish and external materials of the bridge deck

Code of construction practice

6.—(1) No part of the authorised development is to commence until a code of construction practice for that part of the authorised development has been submitted to and, following consultation with Great Yarmouth Borough Council, the lead local flood authority, the IDB and the Environment Agency, approved in writing by the county planning authority.

(2) Any submitted code of construction practice must include the following plans and statements—

- (a) an arboricultural method statement;
- (b) a construction traffic management plan;
- (c) a flood management plan;
- (d) a materials management plan (or equivalent);
- (e) a site waste management plan; and

(f) a workforce travel plan.

(3) Any code of construction practice submitted under sub-paragraph (1) must be in accordance with the outline code of construction practice.

(4) Any part of the authorised development must be carried out in accordance with the relevant code of construction practice approved under sub-paragraph (1) for that part.

Landscaping and ecological management plan

7.—(1) No part of the authorised development is to commence until a written landscaping and ecological management plan for that part has been submitted to and, following consultation with Great Yarmouth Borough Council and Natural England, approved in writing by the county planning authority.

(2) Any landscaping and ecological management plan prepared under sub-paragraph (1) must—

- (a) be based on the mitigation measures included in the environmental statement;
- (b) not give rise to any materially new or materially different environmental effects than those assessed in the environmental statement;
- (c) be in general accordance with the approach to detailed design;
- (d) be in general accordance with the landscaping plans; and
- (e) include the details listed in sub-paragraph (3).

(3) The details referred to in sub-paragraph (2) are—

- (a) details of proposed hard and soft landscaping works, including location, species, size and planting density of any proposed planting;
- (b) details of proposed boundary treatments;
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) proposed finished ground levels;
- (e) hard surfacing materials;
- (f) any ecological mitigation areas;
- (g) details of any existing trees, hedges and shrubs to be retained
- (h) implementation timetables for the landscaping and ecological management works; and
- (i) details of the maintenance regime for the landscaping and ecological management works, which must—
 - (i) provide for maintenance for a period of 15 years commencing with the date of completion of the relevant landscaping and ecological management works; and
 - (ii) include measures for the replacement in the first available planting season, of any tree or shrub planted as part of that landscaping and ecological management plan which, within the period referred to in paragraph (i), dies, becomes seriously diseased or is seriously damaged.

(4) All landscaping works must be carried out and maintained in accordance with the relevant landscaping scheme approved under sub-paragraph (1) for that part.

Existing trees and hedgerows

8.—(1) All hedges and trees forming part of the boundary of the Order land or situated within it and which are shown to be retained in the landscaping scheme approved under paragraph 74 must be protected from any damage during the construction of the authorised development in accordance with British Standard BS5837 (2012) ‘Trees in relation to design, demolition and construction’.

Status: This is the original version (as it was originally made).

(2) If any hedge or tree protected under sub-paragraph (1) is removed, uprooted, destroyed or damaged during the construction of the authorised development it must be replaced in the first available planting season and afterwards maintained for a period of 5 years.

(3) No felling, lopping or removal of hedges or trees (“the relevant activity”) is to take place during the bird nesting season unless a written report concerning the relevant activity by a suitably qualified ecologist has been provided to and approved by the county planning authority. The recommendations of the ecologist as set out in the report must be complied with in carrying out the relevant activity.

Contamination

9.—(1) In the event that contaminated materials are found at any time when carrying out the authorised development which have not been identified and addressed in a code of construction practice—

- (a) work in the location affected by such contamination must immediately stop;
- (b) the contamination must be notified in writing to the county planning authority, Great Yarmouth Borough Council and the Environment Agency; and
- (c) the undertaker must complete a risk assessment of the contamination.

(2) Following a notification under sub-paragraph (1), where the county planning authority determines that remediation is necessary, a written scheme and programme for the remedial measures necessary to render the land fit for its intended purpose (including a timetable), must be submitted to and, following consultation with Great Yarmouth Borough Council and the Environment Agency, approved in writing by the county planning authority and afterwards carried out.

Emergency Preparedness and Response Plan

10.—(1) No part of the authorised development is to be opened to the public until an emergency preparedness and response plan has been submitted to and, following consultation with Great Yarmouth Borough Council, the lead local flood authority, Norfolk Fire and Rescue, Norfolk Constabulary and the Environment Agency, approved in writing by the county planning authority.

(2) The submitted emergency preparedness and response plan must include provision as to the actions and measures to be taken in relation to the authorised development to prepare for and respond to the following emergencies—

- (a) a flood event;
- (b) a fire event; and
- (c) an incident involving terrorism or other substantial threat to security.

(3) Unless otherwise agreed in writing with the county planning authority following consultation with the Environment Agency, an application for the approval of the emergency preparedness and response plan must be accompanied by a summary report of an analysis of the residual tidal flood risk arising from a breach of flood defences, prepared with regard to recognised guidance.

(4) The parts of the emergency preparedness and response plan prepared to respond to a flood event must be prepared, so far as is relevant, with regard to the analysis of residual flood risk referred to in sub-paragraph (3) and be accompanied by a statement explaining the regard that has been had to the results of that analysis.

(5) The approved plan must be implemented in full.

Surface water drainage

11.—(1) No part of the authorised development which comprises any part of a surface water drainage system is to commence until written details of that surface water drainage system, including measures for the management of flood risk, for that part has been submitted to and, following consultation with Great Yarmouth Borough Council, the lead local flood authority, Anglian Water (in respect of its sewerage undertaker functions), the Environment Agency and the IDB, approved in writing by the county planning authority.

(2) The surface water drainage system submitted for approval under sub-paragraph (1) must be in accordance with the drainage strategy and include a timetable for implementation.

(3) The surface water drainage system must be constructed in accordance with the surface water drainage system approved under sub-paragraph (1) for that part.

Lighting

12.—(1) No part of the authorised development is to commence until a written scheme of the lighting to be provided for that part on opening for public use (except lighting to be provided to the interior of a building) has been submitted to and, following consultation with Great Yarmouth Borough Council, approved in writing by the county planning authority.

(2) Any written scheme of proposed lighting submitted for approval under sub-paragraph (1) must be in accordance with the lighting report and include a timetable for implementation.

(3) The part of the authorised development in question must be carried out in accordance with the scheme approved under sub-paragraph (1) for that part and the approved lighting must be maintained thereafter.

(4) Nothing in this requirement restricts lighting of the authorised development during its construction or as temporarily required for maintenance.

Completion and availability of particular works

13.—(1) The highway comprised in the new bridge and the new bridge western approach must not be opened for public use until the works specified in sub-paragraph (2) have been completed and made available for use.

(2) The works are—

- (a) the vessel waiting facilities;
- (b) Work No. 11; and
- (c) Work No. 12.

Archaeology

14.—(1) The authorised development must be constructed in accordance with the archaeological written scheme of investigation, including the provisions of any method statement or other document required to be prepared under the terms of the archaeological written scheme of investigation.

(2) Any archaeological remains not identified in the archaeological written scheme of investigation which are revealed when carrying out the authorised development work (“the revealed remains”) must be retained in situ (subject to sub-paragraphs (3) and (4)) and reported to the county planning authority within 3 working days.

(3) No construction operations are to take place within 10 metres of the revealed remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the county planning authority.

Status: This is the original version (as it was originally made).

(4) If the county planning authority confirm to the undertaker during the 14 day period referred to in sub-paragraph (3) that the revealed remains require further investigation, then no construction operations are to take place within 10 metres of the revealed remains until the revealed remains have been investigated and recorded in accordance with a scheme, which may provide for the removal of the revealed remains (subject to any direction or determination made under article 55 (removal of human remains)), submitted to and approved in writing by the county planning authority.

Preliminary navigation risk assessment

15. The new bridge must be designed, constructed and operated in accordance with section 7 (Additional Mitigation Measures) of the preliminary navigation risk assessment.

Signs at vessel waiting facilities

16. Signs instructing masters of vessels utilising the vessel waiting facilities to switch off the vessel engine whilst the vessel is moored must be provided to the satisfaction of the county planning authority prior to the first use of the vessel waiting facilities and maintained thereafter.

Amendments to approved details

17.—(1) Subject to sub-paragraph (2), where any details, plans or schemes have been approved by the county planning authority under the provisions of any requirement, the county planning authority may at any time if it thinks fit approve amendments to the approved details, plans or schemes and following any further approval by the county planning authority the approved details, plans or schemes include the amendments approved under this requirement.

(2) In considering any amendment to any details, plans or schemes the county planning authority must consult those persons it would have been required to consult before granting approval initially in relation to the details, plans, or schemes.

Details of consultation

18. With respect to any requirement which requires details to be submitted to the county planning authority for approval under this Schedule following consultation with another party, the details submitted to the county planning authority must be accompanied by a summary report setting out—

- (a) the consultation undertaken by the undertaker pursuant to that requirement to inform the details submitted to the county planning authority for approval; and
- (b) the undertaker's response to that consultation.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

19.—(1) In this Part of this Schedule—

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

“application” means an application to a discharging authority for a specified consent;

“discharging authority” means the body responsible for determining an application for a specified consent;

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(2);

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

“specified consent” means any consent, agreement or approval—

(a) required by—

(i) any provision of Part 1 of this Schedule; or

(ii) any document referred to in such provision; or

(b) authorised by paragraph 84,

and includes a consent, agreement or approval discharging a requirement in part only.

Applications made under requirements

20.—(1) Where an application has been made to the relevant discharging authority, the discharging authority must give notice to the undertaker of the discharging authority’s decision on the application within—

(a) a period of 8 weeks beginning with—

(i) the day immediately following that on which the application is received by the discharging authority; or

(ii) where, further information has been requested by the discharging authority under paragraph 88, the day immediately following—

(aa) the day the further information was supplied; or

(bb) where an appeal has been made by the undertaker under sub-paragraph 89(1)(d) or (e) and the appeal is allowed, the day on which the appeal was determined by the Secretary of State; or

(cc) where an appeal has been made by the undertaker under sub-paragraph 89(1)(d) or (e) and the appeal is dismissed, the day on which the relevant further or additional information is supplied; or

(b) such longer period as the discharging authority and the undertaker may agree in writing.

(2) Subject to sub-paragraph (3), in determining an application for a specified consent, the discharging authority may—

(a) grant the specified consent, either unconditionally or subject to reasonable conditions; or

(b) refuse the specified consent,

and where the specified consent, agreement or approval is refused or granted subject to conditions, the discharging authority must provide reasons for the refusal or (as the case may be) conditions in the notice of its decision with the notice of the decision.

(3) In the event that the discharging authority does not give notice of its decision within the period set out in sub-paragraph (1), the discharging authority is taken to have granted the specified consent sought by the application without any condition or qualification at the end of that period.

(2) 1971 c. 80.

Further information relating to application

21.—(1) A discharging authority in receipt of an application for a specified consent may request the undertaker to provide such further information as is reasonably necessary to enable the discharging authority to consider the application.

(2) A request to provide further information under sub-paragraph (1) must be made within 28 days of receipt of the application by the discharging authority.

(3) A discharging authority may request further information under sub-paragraph (1) on more than one occasion provided that all such requirements are made within the period specified by sub-paragraph (2).

(4) If the discharging authority does not request the undertaker to provide further information in accordance with sub-paragraphs (1) to (3), the discharging authority is thereafter deemed to have sufficient information. The undertaker is under no obligation to provide further information to the discharging authority but may do so if the discharging authority so requests.

Appeals

22.—(1) Where the undertaker has made an application for a specified consent to the discharging authority, the undertaker may in writing appeal to the Secretary of State in the event that the discharging authority—

- (a) refuses the application;
- (b) grants the specified consent subject to conditions;
- (c) has not given notice to the undertaker of the discharging authority's decision on the expiry of the applicable period specified by paragraph 87(1);
- (d) requests the undertaker to provide further information in accordance with paragraph 88(1) and the undertaker considers that provision of any of the required information is not necessary to determination of the application;
- (e) has—
 - (i) received further information from the undertaker in response to a request made under paragraph 88(1);
 - (ii) notified the undertaker that information provided is inadequate; and
 - (iii) requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) An appeal made under sub-paragraph (1)(a), (b), (d) or (e), must be made within 42 days of the date of the notice of the relevant decision or (as the case may be) request.

(3) An appeal made under sub-paragraph (1)(c) must be made within 42 days of the expiry of the applicable period specified by paragraph 87(1).

(4) The appeal process is as follows:

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and the requirement consultees;
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person's attention should be sent;
- (c) the discharging authority and the requirement consultees must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under sub-

- paragraph (b) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations under sub-paragraph (c);
 - (e) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (5) The appointment of the person under sub-paragraph (4)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.
- (6) If the appointed person considers that further information is necessary to enable consideration of the appeal, the appointed person must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (7) Any further information required under sub-paragraph (6) is to be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.
- (8) The appointed person may at any time extend any deadline specified in this Part of this Schedule.
- (9) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),
- and may deal with the appeal as if the relevant application had been made to the appointed person in the first instance.
- (10) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed by this Part of this Schedule, or as extended by the appointed person under sub-paragraph (8).
- (11) The appointed person may proceed to a decision even though no written representations have been made within the prescribed time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.
- (12) The decision of the appointed person on an appeal is to be final and binding on the appeal parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.
- (13) If an approval is given by the appointed person under this Schedule, it is deemed to be an approval for the purpose of Part 1 of this Schedule as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.
- (14) Except where a direction is given under sub-paragraph (15) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the undertaker.
- (15) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to any relevant provision of the Planning

Practice Guidance as from time to time published by the Ministry of Housing, Communities and Local Government or any circular or guidance which may from time to time replace it.

PART 3

SUPPLEMENTARY PROVISIONS

Publication of requirements

23.—(1) The undertaker, must, as soon as reasonably practicable following the making of this Order, establish on a website maintained by the undertaker a register of those requirements contained in Part 1 of this Schedule that include provision for a specified consent.

(2) The register must set out in relation to each such requirement—

- (a) whether an application for any specified consent has been made; and
- (b) whether the specified consent has been granted or refused.

(3) Where a specified consent has been granted, the register must provide a copy of it.

(4) The register must be maintained by the undertaker for a period of least 3 years following the opening of the authorised development to public use.

Service of documents

24. Any document required or authorised to be sent to any person under the provisions of this Schedule is to be taken to be a document required or authorised to be served on that person for the purposes of article 65 (service of notices) of the Order.

Anticipatory steps relevant to specified consent

25.—(1) In the discharge of its functions under this Schedule, a discharging authority may treat and take account of any pre-commencement action as if it had occurred after the coming into force of this Order.

(2) in this paragraph “pre-commencement action” means any act of the undertaker or any other person which—

- (a) is of relevance to the seeking or obtaining of a specified consent; and
- (b) occurred before the coming into force of this Order.