

SCHEDULES

SCHEDULE 1

Articles 2 and 32

AUTHORISED DEVELOPMENT

In the Metropolitan Borough of Gateshead

A nationally significant infrastructure project as defined in section 22(1) (highways) of the 2008 Act, and associated development as defined in section 115(2)(2) (development for which development consent may be granted) of the 2008 Act, comprising:

Work No. 1a – The widening, alteration and realignment of the southbound carriageway of the A1 dual carriageway on the approach to Junction 67 (Coal House) commencing at 424371E; 558644N and terminating at grid reference 425284E; 558511N;

Work No. 1b – The widening, alteration and realignment of the northbound carriageway of the A1 dual carriageway on the approach to Junction 67 (Coal House) commencing at grid reference 424366E; 558629N and terminating at grid reference 425277E; 558492N with Work Nos. 1a and 1b including—

- (i) the widening, alteration and realignment of the existing highway with construction of new pavements, embankments, retaining walls, ground improvements (to increase bearing capacity of proposed retaining walls) and landscaping to create 3 no. lanes in each direction;
- (ii) the provision of a hardened central reserve with a rigid concrete barrier or steel step barrier dividing the southbound and northbound carriageways;
- (iii) removal of existing road lighting and installation of new lighting columns within the highway verge of each carriageway;
- (iv) associated drainage works and underground storage drainage facilities within the Coal House roundabout to collect and store water and works to associated existing outfalls to the River Team;
- (v) treatment of underground historical mine workings to reduce the risk of ground instability to include drilling and grouting, mine shaft stabilisation and/or installation of other protection measures;
- (vi) the construction of advanced directional gantry signs, including sign foundations and sign structures;
- (vii) installation of road signs including sign foundations, sign structure, signs, signals, sign illumination, control cabinets, power and communication cable connections;
- (viii) associated utility works and diversions within the highway verge of each carriageway;
- (ix) removal of Vehicle Activated Sign and motorway signals; and
- (x) installation of CCTV, MIDAS and traffic counting equipment with associated ducting.

(1) Section 22 was substituted by [S.I. 2013/1883](#) and amended by section 1(6) of, and paragraph 153 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(2) Section 115(2) was amended by section 160(1) and (3) of the Housing and Planning Act 2016 (c. 22). There are other amendments to section 115(2) which are not relevant to this Order.

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Work No. 2 - The widening of the existing Kingsway Viaduct bridge over Coal House Roundabout at Junction 67 (Coal House) to accommodate the widened highway associated with Work No. 1b including substructure and superstructure elements and removal of existing road lighting and installation of new lighting columns on the bridge deck;

Work No. 3a - The widening, alteration and realignment of the southbound off slip with associated embankment, retaining walls, ground improvements (to increase bearing capacity), drainage, road signs, communications ducting, road lighting, utility diversions and landscaping, commencing at grid reference 424691E; 558594N and terminating at grid reference 424877E; 558582N;

Work No. 3b - The widening, alteration and realignment of the southbound on slip with associated embankment, retaining walls, ground improvements (to increase bearing capacity), drainage, road signs, communications ducting, road lighting, utility diversions and landscaping, commencing at grid reference 425012E; 558584N and terminating at grid reference 425255E; 558533N;

Work No. 3c - The widening, alteration and realignment of the northbound off slip with associated embankment, retaining walls, ground improvements (to increase bearing capacity), drainage, road signs, communications ducting, road lighting, utility diversions and landscaping, commencing at grid reference 425232E; 558497N and terminating at grid reference 425009E; 558512N;

Work No. 3d - The widening, alteration and realignment of the northbound on slip with associated embankments, cuttings, retaining walls and associated ground improvements (to increase bearing capacity), drainage, road signs, communications ducting, road lighting, utility diversions, realignment of existing noise barrier and landscaping commencing at grid reference 424895E; 558519N and terminating at grid reference 424636E; 558569N;

Work No. 4a – The construction of a new offline section of the A1 southbound carriageway between Junction 67 (Coal House) and Smithy Lane Overbridge commencing at grid reference 425284E; 558511N and terminating at grid reference 425772E; 558281N;

Work No. 4b – The construction of a new offline section of the A1 dual carriageway to create 4 no. lanes northbound between Junction 67 (Coal House) and Smithy Lane Overbridge commencing at grid reference 425277E; 558492N and terminating at grid reference 425755E; 558265N;

With Work Nos. 4a and 4b including—

- (i) construction of new highway with associated embankments, ground improvements, drainage facilities and roadside furniture;
- (ii) the provision of a hardened central reserve with a rigid concrete barrier or steel step barrier dividing the southbound and northbound carriageways;
- (iii) installation of lighting columns in the verge;
- (iv) the construction of advanced directional gantry signs, including sign foundations and sign structures;
- (v) demolition of existing verge mounted road signs and installation of replacement new road signs including sign foundations, sign structure, signs, signals, sign illumination, control cabinets, power and communication cable connections;
- (vi) treatment of underground historical mine workings to reduce the risk of ground instability to include drilling and grouting and/or installation of other protection measures;
- (vii) landscaping;
- (viii) relocation of existing internally illuminated tactical variable message sign within verge with associated ducting and reinstallation of existing CCTV in its current position; and
- (ix) associated utility works and diversions within the highway verge of each carriageway;

Work No. 5a – Construction of a new offline structure to cross the East Coast Main Line, accommodating the widened highway comprised in Works No. 4a and 4b including substructure and

superstructure elements and removal of existing/installation of new road lighting, safety barriers, drainage, pavement and advance directional sign gantries comprising one of—

- (i) a single span bridge structure supported by embankments with ground improvements in the form of rigid inclusions extending into subsoil beneath the embankments;
- (ii) a viaduct structure with three spans supported on rigid piled foundations and associated superstructure, substructure and earthwork elements;
- (iii) a viaduct structure with six spans supported on rigid piled foundations and associated superstructure, substructure and earthwork elements; or
- (iv) a viaduct structure with seven spans supported on rigid piled foundations and associated superstructure, substructure and earthwork elements;

Work No. 5b - The demolition of the existing Allerdene Railway bridge and its associated embankments in the area shown on the works plans;

Work No. 6a – The widening, alteration and realignment of the southbound carriageway of the A1 dual carriageway between Smithy Lane Overbridge and Junction 65 (Birtley) commencing at grid reference 425772E; 558281N and terminating at grid reference 428181E; 556704N;

Work No. 6b – The widening, alteration and realignment of the northbound carriageway of the A1 dual carriageway between Smithy Lane Overbridge and Junction 65 (Birtley) commencing at grid reference 425755E; 558265N and terminating at grid reference 428196E; 556627N with Work Nos.6a and 6b including—

- (i) the widening, alteration and realignment of the existing highway with construction of new pavements, embankments, retaining walls, ground improvements (to increase bearing capacity), drainage and landscaping to create 4 no. lanes in each direction, except through Junction 66 (Eighton Lodge) on the northbound carriageway, which will comprise of 3 no. lanes;
- (ii) the provision of a hardened central reserve with a rigid concrete barrier or steel step barrier dividing the southbound and northbound carriageways;
- (iii) removal of existing lighting and installation of new lighting columns within the highway verge of each carriageway;
- (iv) widening of the existing Eighton Lodge Slip Road Underbridge highway structure with associated embankment, substructure and superstructure elements;
- (v) widening of the existing Eighton Lodge North Underbridge highway structure with associated embankment, substructure and superstructure elements;
- (vi) widening of the existing Eighton Lodge South Underbridge highway structure with associated embankment, substructure and superstructure elements;
- (vii) treatment of underground historical mine workings to reduce the risk of ground instability to include drilling and grouting, mine shaft stabilisation and/or installation of other protection measures;
- (viii) the construction of advanced directional gantry signs, including sign foundations and sign structures;
- (ix) installation of road signs including sign foundations, sign structure, signs, signals, sign illumination, control cabinets, power and communication cable connections;
- (x) removal of Vehicle Activated Sign and motorway signals;
- (xi) installation of CCTV, MIDAS and traffic counting equipment with associated ducting;
- (xii) associated drainage works and works to associated existing outfalls; and
- (xiii) associated utility works and diversions within the highway verge;

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Work No. 7a - The widening, alteration and realignment of the southbound off slip at Junction 66 (Eighton Lodge) with associated embankment, cuttings, retaining walls, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), road signs, communications ducting, road lighting, drainage, utility diversions and landscaping commencing at grid reference 426300E; 557750N and terminating at grid reference 426436E; 557693N;

Work No. 7b - The widening, alteration and realignment of the southbound on slip at Junction 66 (Eighton Lodge) with associated embankment, cuttings, retaining walls, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), road signs, communications ducting, road lighting, drainage, utility diversions and landscaping commencing at grid reference 426846E; 557487N and terminating at grid reference 427105E; 557361N;

Work No. 7c - The widening, alteration and realignment of the northbound off slip at Junction 66 (Eighton Lodge) with associated embankment, retaining walls, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), road lighting and landscaping commencing at grid reference 427092E; 557322N and terminating at grid reference 426817E; 557418N;

Work No. 7d - The widening, alteration and realignment of the northbound on slip at Junction 66 (Eighton Lodge) with associated embankment, cuttings, retaining walls, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), road lighting and landscaping commencing at grid reference 426518E; 557514N and terminating at grid reference 426329E; 557677N;

Work No. 8a - The widening, alteration and realignment of the southbound off slip at Junction 65 (Birtley) with associated embankment, cuttings, retaining walls, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), verge ducting, road signs, communications ducting, road lighting, drainage, and landscaping commencing at grid reference 427878E; 556918N and terminating at grid reference 428173E; 556883N;

Work No. 8b - The widening, alteration and realignment of the northbound on slip at Junction 65 (Birtley) with associated embankment, cuttings, retaining walls, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), drainage, underground storage drainage facility, verge ducting, road signs, communications ducting, road lighting, and landscaping commencing at grid reference 428076E; 556499N with local access from the B1288 at grid reference 428151E; 556456N and terminating at grid reference 428150E; 556684N;

Work No. 9 – Diversion of existing Northern Gas Networks Gas Pipeline on land adjacent to Lamesley Road that runs to the south of Work No. 10 commencing at grid reference 425100E, 558405N and terminating at grid reference 425176E, 558400N;

Work No. 10 – Construction of a gas transfer station building for the benefit of Northern Gas Networks Ltd with associated connections to Work Nos. 9, 13, 14 and 15;

Work No. 11 - Construction of a private maintenance access road from Lamesley Road for maintenance of gas, rail and highway structures;

Work No. 12 - Construction of a replacement gas transfer station building for the benefit of Northern Gas Networks Ltd with associated connections to Work Nos. 15 and 16;

Work No. 13 – Diversion of existing Northern Gas Networks Gas Pipeline on land adjacent to Lamesley Road commencing at grid reference 425104E; 558478N and terminating at grid reference 425122E; 558409N;

Work No. 14 - Diversion of existing Northern Gas Networks Gas Pipeline on land adjacent to Lamesley Road commencing at grid reference 425110E; 558482N and terminating at grid reference 425161E; 558455N;

Work No. 15 - Diversion of existing Northern Gas Networks Gas Pipeline extending under A1 highway between land adjacent to Lamesley Road and land adjacent to Chowdene Bank commencing at grid reference 425183E; 558448N and terminating at grid reference 425311E; 558568N;

Work No. 16 - Diversion of existing Northern Gas Networks Gas Pipeline on land adjacent to Chowdene Bank commencing at grid reference 425315E; 558601N and terminating at grid reference 425393E; 558655N;

Work No. 17 – Construction of an access road from the main A1 southbound carriageway that connects to a drainage attenuation pond and pipe outfall to Allerdene Culvert referred to in Work No. 20;

Work No. 18 – Demolition of existing North Dene Footbridge and construction of a new foot/cycle bridge in place of the existing with associated approach ramps over the A1 carriageway at a point 900m south of Junction 66 (Eighton Lodge) and grid reference 427468E; 557101N including associated substructure and superstructure elements, treatment of underground historical mine workings (to include drilling and grouting and/or installation of other protection measures), embankments, retaining walls, utility diversions and hardstanding;

Work No. 19 – Extension of the north side of the Longbank Bridleway Underpass and its associated embankments and other substructure and superstructure elements and provision of lighting, in order to accommodate the highway widening above proposed under Work Nos. 6a and 7b and associated fencing, drainage and footpath improvements on approach to Underpass adjacent to the northbound and southbound carriageways at grid reference 427184E; 557331N; with realignment of the existing footpath and associated improvements commencing west of the Underpass at grid reference 427102E; 557500N and terminating east of the Underpass at grid reference 427364E; 557402N;

Work No. 20 – Alteration and realignment of existing culverted watercourse under the A1 carriageway in the vicinity of Allerdene Bridge, such works including—

- (i) removal of existing culvert and creation of new culverted sections; and/or
- (ii) removal of existing culvert structure and creation of an open ditch with associated substructures, embankments, and landscaping;

Work No. 21 – Temporary construction access required between Woodford and Allerdene Bridge to carry out the demolition of the existing Allerdene Bridge;

Work No. 22 – Diversion of Northumbrian Water main under the A1 carriageway between Junction 67 (Coal House) and Smithy Lane Overbridge associated with Work Nos. 4a and 4b, commencing at grid reference 425672E; 558288N and terminating at grid reference 425983E; 558273N;

Work No. 23 – Removal of existing Overhead Line Equipment structures on the East Coast Main Line, including those attached to the underside of the existing Allerdene Bridge structure, and installation of replacement Overhead Line Equipment (with associated foundations and utility diversions) and drainage, signalling and power supply works to tie in with existing rail infrastructure commencing at grid reference 425620E; 558165N and terminating at grid reference 425435E; 558638N;

and in connection with the construction of any of those works, and to the extent that they do not otherwise form part of any such work, and whether or not shown on the plans referred to in the requirements further development within the order limits consisting of—

- (a) the provision of up to two construction compounds and two working compounds in the areas shown on the works plans;

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- (b) alteration of the layout of any street permanently or temporarily, including but not limited to realignment of carriageways and 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;
- (c) ramps, means of access, footpaths, bridleways, cycle tracks, embankments, aprons, abutments, shafts, foundations, retaining walls, wing walls, bunds, embankment swales, fencing, boundary treatments and highway lighting and culverts;
- (d) street works including breaking up or opening a street, or any sewer, drain or tunnel under it, tunnelling or boring under a street, work to place or maintain apparatus in a street, works to alter the position of apparatus, including mains, sewers, drains and cables;
- (e) the provision of thin surface course and carriageway markings;
- (f) temporary and permanent diversion of utilities apparatus, including gas and water pipelines and electric and telecommunication cables;
- (g) earthworks, including the extension of earthworks;
- (h) retaining structures;
- (i) barriers, including safety barriers;
- (j) fencing;
- (k) refurbishment works to any existing bridge or gantry;
- (l) works to alter the course of, or otherwise interfere with a watercourse, including without limitation works to the River Team including temporary culverting;
- (m) landscaping, noise barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (n) works for the benefit or protection of land affected by the authorised development;
- (o) works to place, alter, remove or maintain road furniture;
- (p) signage and road marking;
- (q) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soils stripping, storage, and site levelling);
- (r) the felling of trees and hedgerows;
- (s) the establishment of site construction compounds, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting, haulage roads and other machinery apparatus, works and conveniences;
- (t) the provision of other works including pavements works, kerbing and paved areas works, signing, signals gantries, road markings, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development;
- (u) the provision of drainage works including attenuation ponds, outfalls, ditches, culverts; and
- (v) such other works, working sites storage areas, works of demolition or works of whatever nature as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development which do not give rise to any materially new or materially different environment effects in comparison with those reported in the environmental statement.

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990⁽³⁾;

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017⁽⁴⁾;

“HEMP” means the handover environmental management plan, to be developed and completed by the end of the construction, commissioning and handover stage of the authorised development which is 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 authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies;

“the Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authorities for England, Scotland, Wales and Northern Ireland, or any equivalent replacement published for that document;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981⁽⁵⁾;

“outline CEMP” means the document of that description submitted with the application for this order and certified as the outline CEMP by the Secretary of State for the purposes of this Order; and

“REAC” means the register of environmental actions and commitments contained in the Outline CEMP.

Time limits

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

(3) 1990 c. 43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 (c. 37).

(4) S.I. 2017/1012.

(5) 1981 c. 69.

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Detailed design – general design requirements

3.—(1) The authorised development must be designed in detail and carried out in accordance with the preliminary scheme design shown on 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 functions, provided that the Secretary of State is satisfied that any amendments to the engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

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

Design of gas transfer buildings

(3) Except where carried out in accordance with the approved details submitted to comply with a condition issued by Gateshead Council on 4 March 2020 under reference DC/20/00059/NI no part of Work No. 10 or 12 may commence until the details of the layout, scale and external appearance (including materials which are proposed to be used and proposed finishes) of the above ground structures comprised in Work Nos. 10 and 12 have been submitted to and approved by the Secretary of State in consultation with the relevant planning authority. The approved details must not give rise to any materially new or materially different environmental effects in comparison to the approved details submitted to comply with a condition issued by Gateshead Council on 4 March 2020 under reference DC/20/00059/NI.

(4) Work Nos. 10 and 12 shall be constructed in accordance with the approved details submitted to comply with a condition issued by Gateshead Council on 4 March 2020 under reference DC/20/00059/NI or otherwise in accordance with the details approved under sub-paragraph (3).

(5) No part of Work No. 12 may be commenced by the undertaker until a scheme for the demolition of the existing gas transfer building (including the timescale for such demolition) has been submitted to and approved by the Secretary of State in consultation with the relevant planning authority. The demolition of the existing gas transfer building shall be carried out in accordance with the approved scheme.

(6) Without prejudice to article 6 (planning permission), nothing in sub-paragraphs (3) to (5) shall restrict Northern Gas Networks Limited from undertaking works authorised by a separate grant of planning permission or authorised in terms of the Town and Country Planning (General Permitted Development) (England) Order 2015(6).

Design of gantries

(7) No gantries shall be erected within the areas identified on the works plans as proposed new gantry areas until a signage strategy for the provision of signage in those areas (including the design and height of supporting gantries) has been submitted to and approved by the Secretary of State, in consultation with the relevant planning authority. The signage strategy shall consider or take account of—

- (a) any replacement of the Design Manual for Roads and Bridges Interim Advice Note 144/16 Directional Signs on Motorway and All-Purpose Trunk Roads: Grade Separated Junctions and the need to relocate signs in the verge in place of super span gantries;
- (b) the use of single span gantries or cantilever gantries in substitution for super span gantries.
- (c) the potential impact of the gantries on the setting of the Angel of the North; and

(6) [S.I. 2015/596](#).

- (d) the safety of road users, public safety in general, the need for directional signage and the safety of maintenance operatives.
- (8) The authorised development shall be constructed in accordance with the approved signage strategy.
- (9) Notwithstanding the terms of sub-paragraph (7), once the gantries have been erected in accordance with the approved signage strategy, the maintenance and, if necessary, replacement of the gantries shall be undertaken by the undertaker in accordance with the powers and duties of the 1980 Act. The carrying out of such maintenance and replacement in accordance with the 1980 Act shall not constitute a breach of this Order provided that such maintenance or replacement does not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Design of structures

- (10) No part of Work No. 5a other than ground treatment, piling, abutments and supporting piers is to be constructed until a scheme for the following elements of the design of the bridge deck forming part of that work have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, in relation to—
 - (a) the colour scheme for the bridge beams;
 - (b) the use of sustainable materials;
 - (c) the parapet systems compliant with operational highway and railway requirements; and
 - (d) soffits other than the design as shown on the engineering drawings and sections or which mirrors the existing Allerdene Bridge.
- (11) Work No. 5a shall be constructed in accordance with the approved details.
- (12) In this requirement—
 - “cantilever gantry” means a gantry which spans a single carriageway with the support located in the verge of the carriageway only;
 - “single span gantry” means a portal gantry which spans a single carriageway of a dual carriageway with one support located in the central reserve and the other support in the verge of the carriageway which it crosses; and
 - “super span gantry” means a portal gantry which spans both carriageways of a dual carriageway with the supports located in the verges of each respective carriageway.

Construction and handover environmental management plans

- 4.—(1) Other than site clearance works carried out in terms of paragraph 16 (advance site clearance works), no part of the authorised development is to commence until a CEMP, substantially in accordance with the outline CEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, the Environment Agency and Historic England to the extent that it relates to matters relevant to its function.
 - (2) The CEMP must be written in accordance with ISO14001 and must—
 - (a) be substantially in accordance with the mitigation measures set out in the REAC;
 - (b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;
 - (c) require adherence to working hours of 07:00–19:00 Mondays to Fridays and 07:30–13:00 on Saturday except for—
 - (i) night-time closures for bridge demolition and installation;

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- (ii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
 - (iii) junction tie-in works;
 - (iv) works required in relation to the East Coast Main Line;
 - (v) overnight traffic management measures;
 - (vi) cases of emergency; and
 - (vii) as otherwise agreed by the local authority in advance;
- (d) include the following management plans—
- (i) Communications Plan;
 - (ii) Construction Traffic Management Plan;
 - (iii) Landscape Management Plan;
 - (iv) Ecological Management Plan including the Invasive Non-Native Species Management Plan, Riparian Protection Management Plan;
 - (v) Soil Handling Strategy;
 - (vi) Materials Management Plan;
 - (vii) Site Waste Management Plan; Water Management Plan including the Temporary Surface Water Drainage Strategy; and
 - (viii) Any other specific management plans identified during subsequent stages of the authorised development.

(3) The construction of the authorised development must be carried out in accordance with the approved CEMP or such amendments to that CEMP as may be approved in writing by the Secretary of State following consultation with the relevant planning authority, the Environment Agency and Historic England to the extent that it relates to matters relevant to its function.

(4) A HEMP must be developed and completed by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved CEMP.

(5) The HEMP must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the authorised development, and must contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

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

Landscaping

5.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until a landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) The landscaping scheme must be substantially in accordance with the mitigation measures set out in the REAC and must be based on either—

- (a) the illustrative environmental masterplan and landscape mitigation design annexed to the environmental statement; and
- (b) to the extent not consistent with sub-paragraph (a)—
 - (i) subject to sub-paragraph (3), Option 1 as set out on page 27 of the Southern Green Options Report;
 - (ii) subject to sub-paragraph (4), Option 2 as set out on page 29 of the Southern Green Options Report; or
 - (iii) subject to sub-paragraph (4), Option 3 as set out on page 31 of the Southern Green Options Report.

(3) Nothing shall require the landscaping scheme to be based on Option 1 of the Southern Green Options Report unless the relevant planning authority has entered into an agreement providing for any cost associated with Option 1 that is above the cost of the illustrative environmental masterplan and landscape mitigation design annexed to the environmental statement is to be paid or otherwise secured by the relevant planning authority.

(4) Nothing shall require the landscaping scheme to be based on Option 2 or Option 3 of the Southern Green Options Report unless the relevant planning authority has—

- (a) made provision for sufficient land for the installation and maintenance of replacement woodland planting to mitigate the effects of the implementation of Option 2 or Option 3; and
- (b) entered into an agreement providing for any cost of Option 2 or Option 3 that is above the cost of the illustrative masterplan and landscape design annexed to the environmental statement is to be paid or otherwise secured by the relevant planning authority.

(5) The landscaping scheme prepared under sub-paragraph (1) must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) proposed finished ground levels;
- (e) implementation timetables for all landscaping works; and
- (f) how the landscaping scheme addresses the guidance in paragraph 4.29 of the National Policy Statement for National Networks for the appearance of national network projects to demonstrate good aesthetics as far as possible.

(6) All landscaping works must be carried out in accordance with the scheme referred to in sub-paragraph (1) to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

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

(8) Planting will be undertaken at Longacre Wood to replace any trees that were intended to be retained which are felled or die as a result of construction works. The size, species and location of replacement trees will be included in the landscaping scheme required by sub-paragraph (1).

Contaminated land and groundwater

6.—(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 as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of the contaminated land 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 on matters related to its function and the Environment Agency.

(3) A suitable capping layer, comprising either 400mm layer of “clean” soil or a shallow thickness with a geotextile marker layer, will be constructed in any areas of soft landscape planting located over areas of made ground contaminated with asbestos. The details of any such capping layers shall be included within any remedial measures required in terms of sub-paragraph (2).

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

Protected species

7.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until for that part final pre-construction survey work has been carried out to confirm 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) Following pre-construction survey work or at any time when carrying out the authorised development, where—

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

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

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

Surface and foul water drainage

8.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, in substantial accordance with the mitigation measures set out in the REAC

including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its function.

(2) The written details required by sub-paragraph (1) shall include culvert design. Where possible, culverts will be designed to include natural beds (between 100mm and 200mm) to maintain and assist fish passage. To mitigate for potential downstream impacts and maintain passage along watercourses, baffles or similar structures shall be included within existing culverts.

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

Archaeological remains

9.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until for that part a final written scheme of investigation (FWSI) of areas of archaeological interest has been submitted to and approved in writing by the Secretary of State, in consultation with the relevant planning authority and Historic England on matters related to its function. The FWSI shall be substantially in accordance with the mitigation measures included in the REAC and the outline written scheme of investigation and shall include a programme of archaeological reporting, post excavation and publication including a timescale for such reporting and publication.

(2) The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.

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

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

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

(6) If the relevant planning authority or, in the case of a scheduled monument, Historic England determines in writing that the archaeological remains referred to in sub-paragraph (4) require further investigation or mitigation, no construction operations are to take place within 10 metres of the remains until provision has been made for such mitigation or the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority or, in the case of a scheduled monument, Historic England.

Traffic management

10.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until a traffic management plan for that part has

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

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

(3) The formation of a construction compound or working compound may not commence until details of the siting, design and layout (including visibility splays and construction specification) of any new or modified permanent or temporary means of access between that compound and the public highway to be used by vehicular traffic during construction, and the means of reinstating any temporary means of access after construction (where reinstatement is to take place) has been submitted to and approved by the Secretary of State, in consultation with the local highway authority. The access to the construction and working compounds must be constructed in accordance with the approved details.

Amendments to approved details

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

Design of North Dene Footbridge

12.—(1) The North Dene Footbridge shall be replaced in terms of Work No.18 in its current location with a new footbridge which will have a single drawstring truss.

(2) The existing North Dene Footbridge shall not be demolished and no part of the replacement bridge to be constructed in terms of Work No. 18 may commence until the details of the demolition of the existing bridge, design of the replacement bridge (including how the design addresses the guidance in paragraph 4.29 of the National Policy Statement for National Networks for the appearance of national network projects to demonstrate good aesthetics as far as possible), together with details of the timings for the demolition and construction works have been submitted to and approved by the Secretary of State in consultation with the relevant planning authority.

(3) Work No. 18 shall be constructed in accordance with the details approved under sub-paragraph (2).

Fencing

13. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Volume 1, Series 0300 of the Manual of Contract Documents for Highway Works except—

- (a) where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development; or
- (b) where the fencing or enclosure is an acoustic barrier which is required by an entry in the REAC.

Allerdene bridge replacement

14. The undertaker is restricted to carrying out Work No.5a as one of the works specified in paragraph (i), (ii), (iii) or (iv) of Work No. 5a as follows—

- (a) in the event that the Work No. 5a is to comprise a single span bridge structure in terms of paragraph (i) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 3 of the structures engineering drawings and sections;

- (b) in the event that the Work No. 5a is to comprise a three span bridge structure in terms of paragraph (ii) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 16 of the structures engineering drawings and sections;
- (c) in the event that the Work No. 5a is to comprise a six span bridge structure in terms of paragraph (iii) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 4 of the structures engineering drawings and sections; or
- (d) in the event that the Work No. 5a is to comprise a seven span bridge structure in terms of paragraph (iv) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 5 of the structures engineering drawings and sections.

Primary Design Mitigation

15. The Scheme shall include the following primary mitigation measures—

- (a) a retaining wall will be included to retain the access road located adjacent to junction 65 (Birtley) southbound exit slip to ensure access is maintained to properties which use Northside to the north east of the A1 serving the Bowes Incline hotel and Angel of the North fishing lakes; and
- (b) the earthworks design for the highway widening at Longacre Wood shall use a 1:2 slope at Longacre Wood so as to minimise land take at this location as illustrated on the General Arrangement Drawings.

Advance site clearance works

16.—(1) No vegetation clearance shall take place until a construction management plan for vegetation clearance to be undertaken as part of the authorised works has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, the Environment Agency and Historic England to the extent that it relates to matters relevant to the function of the relevant consulted party.

(2) The construction management plan required by sub-paragraph (1) shall include measures to address items G4, A1, A2, L1, L3, B5, B6, B7, B8, B12, B13, B15, B18, B22, B24, B25, M6 and N5 of the REAC insofar as they relate to vegetation clearance.

(3) The vegetation clearance comprised in the authorised works shall be carried out in accordance with the construction management plan approved in terms of sub-paragraph (1).

Details of construction compound

17.—(1) Subject to sub-paragraph (3), in the event that the undertaker proposes to undertake Work No. 5a as provided in paragraph (iii) or (iv) of Work No. 5a comprising a six span or seven span viaduct respectively then the undertaker may only exercise powers of temporary possession over plot 3/13a of the land plans where a plan based upon those in Appendix A to the CEMP showing the extent and layout of the construction compound to be established at Junction 67 within the land delineated by a broken blue line on the Northern Gas Networks Land Ownership Plan has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) In considering the details to be submitted in terms of sub-paragraph (1), the undertaker and the Secretary of State shall have regard to—

- (a) the construction requirements of the chosen engineering design for Work No. 5a; and
- (b) the need to minimise the temporary possession of land within plot 3/13a of the land plans so far as reasonably practical.

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(3) In the event that the undertaker proposes to undertake Work No. 5a as provided in paragraph (iii) or (iv) of Work No.5a then the undertaker shall be restricted to exercising the power of temporary possession over plot 3/13a to that part of the land identified in the details approved in terms of sub-paragraph (1).

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

18.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 19 (further information); or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification at the end of that period).

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report from a body required to be consulted by the undertaker under the requirement that considers it likely that the subject matter of the application would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement,

then the application is taken to have been refused by the Secretary of State at the end of that period.

Further information

19.—(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within that 21 business day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes

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of calculating the time periods referred to in paragraph 18 (applications made under requirements) and in this paragraph.

(4) In this requirement, “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(7).

Register of requirements

20.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Anticipatory steps towards compliance with any requirement

21. If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

SCHEDULE 3

Articles 14 and 18

CLASSIFICATION OF ROADS ETC.

PART 1

TRUNK ROADS

<i>(1)</i> <i>Road</i>	<i>(1)</i> <i>Road</i>
Junction 67 (Coal House) to Smithy Lane Overbridge for Southbound and Northbound carriageways	Between point 2/1 on Sheet 2 and point 3/16 on Sheet 3 of the Streets, Rights of Way and Access Plans.
Junction 67 (Coal House) Southbound on slip	Between point 3/1 and point 3/6 on Sheet 3 of the Streets, Rights of Way and Access Plans.
Junction 67 (Coal House) Northbound off slip	Between point 2/2 on Sheet 2 and point 3/5 on Sheet 3 of the Streets, Rights of Way and Access Plans.

(7) 1971 c. 80

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PART 2
OTHER RIGHTS OF WAY

<i>(1)</i>	<i>(2)</i>
<i>Public right of way</i>	<i>Extent</i>
Public Right of Way BI/16/1 leading to North Dene Footbridge (including crossing facilities over the A1 Southbound and Northbound carriageway)	To be substituted in part at its southern end where it meets the proposed North Dene Footbridge and continues over A1 Southbound and Northbound carriageway between point 6/4 and point 6/5 on Sheet 6 of the Streets, Rights of Way and Access Plans.

SCHEDULE 4

Article 16

PERMANENT STOPPING UP OF STREETS, PUBLIC RIGHTS OF WAY AND PRIVATE MEANS OF ACCESS

PART 1
STREETS TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Street to be stopped up</i>	<i>Extent of stopping up</i>	<i>New highway to be substituted</i>
The permanent stopping up and removal of the existing A1 carriageway and its embankments and associated structures. between junction 67 (Coal House) and Smithy Lane Overbridge.	From point 2/1 on Sheet 2 (measuring 800m in length) and terminating at point 3/16 on Sheet 3 of the Streets, Rights of Way and Access Plans.	Highway to be removed and replaced by Work Nos. 4a, 4b and 5a.

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PART 2

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Public right of way to be stopped up</i>	<i>Extent of stopping up</i>	<i>New highway to be substituted</i>
Permanent stopping up of existing footpath that crosses Public Right of Way LA/72a/16 (Longbank Bridleway) adjacent to southbound onslip at junction 66 (Eighton Lodge).	From point 5/3 on Sheet 5 and terminating at point 6/2 on Sheet 6 of the Streets, Rights of Way and Access Plans.	To be substituted by a new footpath that runs to the north of the existing footpath from point 5/3 on Sheet 5 and terminating at point 6/2 on Sheet 6 of the Streets, Rights of Way and Access Plans.

PART 3

PRIVATE MEANS OF ACCESS TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Private means of access to be stopped up</i>	<i>Extent of stopping up</i>	<i>New highway to be substituted</i>
Private means of access from Lamesley Road to land adjacent to south side of proposed Allerdene Bridge and East Coast Main Line.	From point 3/3 on Sheet 3 to point 3/7 on Sheet 3 of the Streets, Rights of Way and Access Plans.	To be substituted by new access road from Lamesley Road from point 3/4 to point 3/8 on Sheet 3 of the Streets, Rights of Way and Access Plans.

SCHEDULE 5

Article 15

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Public right of way to be stopped up</i>	<i>Extent of stopping up</i>	<i>New public right of way to be substituted</i>
Temporary stopping up of Public Right of Way BI/16/1 leading to North Dene Footbridge (including crossing facilities over the A1	Southern end of public right of way where it connects with existing footbridge at point 6/4 to point 6/5 on Sheet 6 of the Streets, Rights of Way and Access Plans.	To be substituted temporarily whilst the Footbridge is being demolished by a diversion route from point 6/4 to point 6/1 on Sheet 6 of the Streets,

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<i>(1)</i> <i>Public right of way to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>New public right of way to be substituted</i>
Northbound and Southbound carriageway).		Rights of Way and Access Plans.
		<p>The replacement Footbridge will be provided in the same location as the existing structure shown between point 6/4 and point 6/5 on Sheet 6 of the Streets, Rights of Way and Access Plans.</p> <p>A new footpath will be provided from point 6/5 to point 6/3 on Sheet 6 of the Streets, Rights of Way and Access Plans.</p>
Temporary stopping up of Public Right of Way LA/72a/16 (referred to as Longbank Bridleway).	To be temporarily stopped up between point 5/4 on Sheet 5 and point 6/1 on Sheet 6 of the Streets, Rights of Way and Access Plans.	To be substituted temporarily by a diversion route that runs between point 6/1 on Sheet 6 and point 5/2 and point 5/5 on Sheet 5 of the Streets, Rights of Way and Access Plans.
Temporary stopping up of Public Right of Way GA/7/1 to provide construction works access with a controlled crossing point.	To be temporarily stopped up between point 3/10 and point 3/11 on Sheet 3 of the Streets, Rights of Way and Access Plans.	To include a controlled crossing point between point 3/10 and point 3/11 on Sheet 3 of the Streets, Rights of Way and Access Plans.
Temporary stopping up of Public Right of Way GA/6/1 to provide construction works access.	To be temporarily stopped up between point 3/12 and point 3/14 on Sheet 3 of the Streets, Rights of Way and Access Plans.	To include a controlled crossing point between point 3/12 and point 3/14 on Sheet 3 of the Streets, Rights of Way and Access Plans.
Temporary stopping up of footpath that runs parallel to A167 Durham Road from Angel of the North to junction 66 (Eighton Lodge).	To be temporarily stopped up from point 4/1 on Sheet 4 to point 5/1 on Sheet 5 of the Streets, Rights of Way and Access Plans.	To be substituted temporarily by a diversion route that runs to the north of the existing footpath from point 4/1 on Sheet 4 to point 5/1 on Sheet 5 of the Streets, Rights of Way and Access Plans.
Temporary stopping up of footpath that runs adjacent to the southbound off slip at junction 65 (Birtley).	To be temporarily stopped up from point 7/1 to point 7/2 on Sheet 7 of the Streets, Rights of Way and Access Plans.	To be substituted temporarily by a diversion route that runs to the north of the existing footpath from point 7/1 to point 7/2 on Sheet 7 of the Streets, Rights of Way and Access Plans.

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(1)	(2)	(3)
<i>Public right of way to be stopped up</i>	<i>Extent of stopping up</i>	<i>New public right of way to be substituted</i>
Temporary stopping up of Public Right of Way LA/40/10 leading to the B1296 Longbank.	To be temporarily stopped up between point 5/6 and 5/7 on Sheet 5 of the Streets, Rights of Way and Access Plans.	To be substituted temporarily by a diversion route from point 5/6 and 5/7 on Sheet 5 of the Streets, Rights of Way and Access Plans.

SCHEDULE 6

Article 26

LAND IN RESPECT OF WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1)	(2)	(3)
<i>Plot Reference Number shown on Land Plan</i>	<i>Purpose for which rights over land may be acquired</i>	<i>Relevant part of the authorised development</i>
Land Plans – Sheet 2		
2/2	Construction of retaining wall, new/relocation of existing ADS signs, upgrading of road lighting (including rights for access and maintenance).	Work Nos. 1a and 3a
Land Plans – Sheet 3		
3/1	Construction of retaining wall, new/relocation of existing ADS signs, upgrading of road lighting (including rights for access and maintenance).	Work Nos. 1a and 3a
3/3e	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct and maintain works to junction 67 (Coal House) northbound on slip road. Rights to construct and retain grouting works under land and maintenance.	Work Nos. 1b and 3d
3/3f	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct and maintain works to junction 67 (Coal House) northbound on slip road. Rights to construct	Work Nos. 2 and 3d

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
3/3g	<p>and retain grouting works under land.</p> <p>New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side) and for grouting works on the land underneath the proposed new structure.</p>	Work Nos. 2 and 3d
3/3h	<p>New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side) and for grouting works on the land underneath the proposed new structure.</p>	Work Nos. 2 and 3a
3/3i	<p>New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side). Rights to construct and retain grouting works under land.</p>	Work Nos. 2 and 3a
3/3z	<p>New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side). Grouting works under land.</p>	Work Nos. 2, 3c and 3d
3/3dd	<p>Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction 67 (Coal House)</p>	Work Nos. 1b, 2, 3c and 3d

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
3/3ff	northbound off slip road. Grouting works under land. Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction 67 (Coal House) northbound off slip road. Grouting works under land.	Work Nos. 2 and 3c
3/3gg	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Rights to construct and retain grouting works under land.	Work Nos. 2 and 3b
3/3hh	New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side) and for grouting works on the land underneath the proposed new structure.	Work Nos. 2 and 3b
3/3ll	New right to construct, operate, access and maintain a private maintenance access road on land adjacent to Lamesley Road and extending to land adjacent to south side of the proposed Allerdene Bridge and the East Coast Main Line for the benefit of Network Rail, Highways England and Northern Gas Networks Ltd.	Work No. 11
3/3mm	Required for diversion of existing Northern Gas Networks pipelines. Required for access to construct works to junction 67 (Coal House)	Work Nos. 3c, 13 and 14

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(1) <i>Plot Reference Number shown on Land Plan</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
3/3pp, 3/3qq, 3/3tt	northbound off slip road. Grouting works under land. Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Rights to construct and retain grouting works under land.	Work Nos. 1a and 3b
3/3ww	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment, and for installation and retention of grouting works on the land underneath the proposed new structure.	Work Nos. 5a, 5b and 23
3/3yy	New right to demolish the existing Allerdene Bridge and construct, operate, access and maintain a replacement offline Allerdene Bridge structure.	Work Nos. 5a, 5b and 21
3/3aaa	Required for proposed Northumbrian Water pipeline diversion. Rights to construct and retain grouting works under land.	Work Nos. 4b, 5a, and 22
3/3hhh	New right to access, operate, make alterations to and maintain the existing drainage outlet pipeline.	Work No. 6a
3/3kkk	Required for access and to construct proposed highway and associated embankment. Rights to construct and retain grouting works under land.	Work Nos. 6a and 7a
3/3lll	New right to access, operate, make alterations to and maintain the existing drainage outlet pipeline. Rights to construct and retain grouting works under land.	Work Nos. 6a and 7a
3/3nnn	Required for access and to construct proposed highway	Work Nos. 6a and 7a

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
3/6k	carriageway. Rights to construct and retain grouting works under land.	N/A
3/6l	Required for construction compound. Rights to construct and retain grouting works under land.	N/A
3/6l	New right to access and maintain Allerdene culvert and drainage ditch.	Work No. 20
3/10d	New right to demolish the existing Allerdene Bridge and construct, operate, access and maintain a replacement offline Allerdene Bridge structure and for installation and retention of grouting works on the land.	Work Nos. 5a, 5b and 23
3/10g, 3/12d, 3/12f	New right to construct, operate, access and maintain a replacement offline Allerdene Bridge structure and for grouting works on the land underneath the proposed new structure.	Work No. 5a
3/10e, 3/10f, 3/12c, 3/12e	New right to operate, access and maintain a replacement offline Allerdene Bridge structure and for installation and retention of grouting works on the land.	Work No. 5a
3/10h	New right to construct, operate, access and maintain a replacement offline Allerdene Bridge structure, associated Overhead Line Equipment and for installation and retentions of grouting works on the land.	Work Nos. 4a, 4b, 5a, 5b and 23
3/12b	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment, and for installation	Work Nos. 4a, 4b, 5a, 5b and 23

(1) <i>Plot Reference Number shown on Land Plan</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
<p>Land Plans – Sheet 4</p> <p>4/2d</p> <p>4/3b</p> <p>4/3q, 4/4b</p> <p>4/6b</p> <p>4/7b, 4/7e</p>	<p>and retention of grouting works on the land.</p> <p>New right to extend the Longbank Bridleway Underpass and operate, access and maintain the structure and associated equipment. Grouting works under land.</p> <p>Required for utility diversions and associated works within junction 66 (Eighton Lodge) Roundabout. Rights to construct and retain grouting works under land.</p> <p>Required for the construction compound at junction 66 (Eighton Lodge) and associated access. Rights to construct and retain grouting works under land.</p> <p>Required to construct the extension of Longbank Bridleway Underpass, including temporary working space and diversions for pedestrians during the Underpass closure. Rights to construct and retain grouting works under land.</p> <p>Required to carry out the demolition and construction of the replacement North Dene Footbridge and for temporary diversion of pedestrians during closure of the Footbridge. Rights to construct and retain grouting works under land.</p>	<p>Work Nos. 6a and 19</p> <p>Work No. 6a</p> <p>N/A</p> <p>Work Nos. 6a and 19</p> <p>Work No. 18</p>
<p>4/7f</p> <p>4/9b, 4/10</p>	<p>New right to access, operate, make alterations to and maintain the existing drainage outlet pipeline. Grouting works under land.</p> <p>New right to access, operate, make alterations to and</p>	<p>Work Nos. 6a and 19</p> <p>Work No. 6b</p>

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
4/12b, 4/13b, 4/13d	maintain the existing drainage outlet pipeline.	
4/14b	Required to carry out the demolition and construction of the replacement North Dene Footbridge and for temporary diversion of pedestrians during closure of the Footbridge. Rights to construct and retain grouting works under land.	Work No. 18
Land Plans – Sheet 5		
5/3b, 5/4b, 5/4d	Required for access and construction of main highway works and junction 65 (Birtley) off slip. Rights to construct and retain grouting works under land.	Work Nos. 6a and 8a
5/5a	Required to construct the proposed highway works and associated access. Rights to construct and retain grouting works under land.	Work No. 8a
5/6, 5/7, 5/8, 5/9, 5/11	Required for construction of junction 65 (Birtley) southbound off slip road works and temporary footpath diversion. Rights to construct and retain grouting works under land.	Work No. 8a

SCHEDULE 7

Article 26

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

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 the imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants) to the A1 Birtley to Coal House Development Consent Order 2021);
- (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 to the A1 Birtley to Coal House Development Consent Order 2021 to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(8) has effect subject to the modifications set out in sub-paragraphs (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (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”.

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 28 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 23 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 26(1) (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modification specified in paragraph 5; and

(8) 1973 c. 26

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(b) with such other modifications as may be necessary.

5.—(1) The modification referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(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.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must 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.”.

(4) 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.

(5) Section 11(9) (powers of entry) of the 1965 Act 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, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 23), 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; and sections 11A(10) (powers of entry: further notices of entry), 11B(11) (counter-notice requiring possession to be taken on specified date), 12(12) (unauthorised entry) and 13(13) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(14) (tenants at will, etc.) of the 1965 Act 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

(9) 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), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(10) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(11) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016.

(12) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(13) 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).

(14) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

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.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 28(4) is also 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, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 29 (application of the 1981 Act) of the A1 Birtley to Coal House Development Consent Order 2021 in respect of the land to which the notice to treat relates.

(2) But see article 30(3) (acquisition of subsoil or airspace only) of the A1 Birtley to Coal House Development Consent Order 2021 which excludes the application of subsoil or airspace only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

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9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or 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 of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 8

Article 32

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Plot Reference Number shown on Land Plan</i>	<i>Purpose for which rights over land may be acquired</i>	<i>Relevant part of the authorised development</i>
Land Plans - Sheet 3		
3/3b, 3/3d	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required	Work Nos. 1b and 3d

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
	for access to construct works to junction 67 (Coal House) northbound on slip road.	
3/3c	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction 67 (Coal House) northbound on slip road.	Work Nos. 1b, 2 and 3d
3/3e	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction 67 (Coal House) northbound on slip road. Grouting works under land.	Work Nos. 1b and 3d
3/3f	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction 67 (Coal House) northbound on slip road. Grouting works under land.	Work Nos. 2 and 3d
3/3i	New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side). Grouting works under land.	Work Nos. 2 and 3a
3/3k, 3/3n	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team.	Work Nos. 2, 3a and 3b
3/3p	Temporary working space for the widening, alteration and realignment of the existing highway and the widening of Kingsway Viaduct. The realignment of southbound off slip and northbound	Work Nos. 2, 3c and 3d

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(1) <i>Plot Reference Number shown on Land Plan</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
	on slip (junction 67) with construction of new pavements, embankments, retaining walls, ground improvements.	
3/3q, 3/3r	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team.	Work Nos. 2, 3a and 3b
3/3s	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team.	Work Nos. 2, 3c and 3d
3/3v	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team.	Work Nos. 2, 3a and 3b
3/3w, 3/3x, 3/3y	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team.	Work Nos. 2, 3c and 3d
3/3z	New right to widen the existing Kingsway Viaduct and operate, access and maintain the structure (including the airspace underneath and extending up to 15m either side). Grouting works under land.	Work Nos. 2, 3c and 3d
3/3aa	Required for access to construct works to junction 67 (Coal House) southbound on slip road.	Work No. 3b
3/3bb	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team.	Work Nos. 1b, 2, 3c and 3d
3/3cc	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction	Work Nos. 1b, 2, 3c and 3d

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
	67 (Coal House) northbound off slip road. Grouting works under land.	
3/3dd	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Required for access to construct works to junction 67 (Coal House) northbound off slip road. Grouting works under land.	Work Nos. 1b, 2, 3c and 3d
3/3ee	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Grouting works under land. Widening to Junction 67 Southbound on slip road.	Work Nos. 1a and 3b
3/3gg	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Grouting works under land.	Work Nos. 2 and 3b
3/3jj	Required for diversion of existing Northern Gas Networks pipelines and construction of associated gas transfer station building adjacent to northbound carriageway.	Work Nos. 9, 10, 13 and 14
3/3mm	Required for diversion of existing Northern Gas Networks pipelines. Required for access to construct works to junction 67 (Coal House) northbound off slip road. Grouting works under land.	Work Nos. 3c, 13 and 14
3/3oo	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Grouting works under land. Widening to junction 67 southbound on slip road.	Work Nos. 1a and 3b

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(1) <i>Plot Reference Number shown on Land Plan</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
3/3pp, 3/3qq, 3/3tt	Required for works within and around junction 67 (Coal House) Roundabout including works to River Team. Grouting works under land.	Work Nos. 1a and 3b
3/3ss	Required for access to the works within junction 67 (Coal House) Roundabout.	Work Nos. 12 and 16
3/3uu, 3/10b, 3/10c, 3/11	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment, and for grouting works on the land underneath the proposed new structure.	Work No. 5a, 5b and 23
3/3ww	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment, and for grouting works on the land underneath the proposed new structure.	Work Nos. 5a, 5b and 23
3/3xx	Required for the working compound and associated access.	N/A
3/3aaa	Required for proposed Northumbrian Water pipeline diversion. Grouting works under land.	Work Nos. 4b, 5a, and 22
3/3bbb	Required for proposed Northumbrian Water pipeline diversion.	Work No. 22
3/3ccc	Required to access, maintain and alter existing drainage outlet and ditch.	Work No. 6b
3/3eee	Required for the working compound and associated access. Demolition of Existing Allerdene Bridge.	Work No. 21

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
3/3fff	Temporary working space for the widening, alteration and realignment of the existing highway with construction of new pavements, embankments, retaining walls, ground improvements and directional gantry signs. Diversion of Northumbrian Water main under the A1 carriageway.	Work Nos. 6a and 22
3/3ggg	Required for the working compound and associated access. Northumbrian Water pipeline diversion.	Work No. 22
3/3jjj	Required to access, maintain and alter existing drainage outlets.	Work No. 6a
3/3kkk	Required for access and to construct proposed highway and associated embankment. Grouting works under land.	Work Nos. 6a and 7a
3/3nnn	Required for access and to construct proposed highway and associated embankment. Required to alter existing drainage outlets. Grouting works under land.	Work Nos. 6a and 7a
3/4e, 3/4f	Required for access and to construct proposed highway and associated embankment. Required to access, maintain and alter existing drainage outlet and ditch.	Work No. 6b
3/4h, 3/4r	Required to access, maintain and alter existing drainage outlet and ditch.	Work No. 6b
3/4j, 3/4k	Required for access and to construct proposed highway and associated embankment.	Work No. 6b
3/4q	Required to access, maintain and alter existing drainage outlet and ditch. Grouting works under land.	Work No. 6b

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
3/4t	Required for proposed Northumbrian Water pipeline diversion.	Work No. 22
3/5	Required for diversion of existing Northern Gas Networks pipelines and construction of associated gas transfer station building adjacent to northbound carriageway.	Work Nos. 9, 10, 13, 14 and 15
3/6a	Required for diversion of existing Northern Gas Networks pipelines and construction of associated gas transfer station building adjacent to northbound carriageway.	Work Nos. 9, 10, 13, 14 and 15
3/6c	Required for the construction compound for Allerdene Bridge and associated access.	N/A
3/6d	Required for diversion of existing Northern Gas Networks pipelines. Required for access to construct works to junction 67 (Coal House) northbound off slip road. Grouting works under land.	Work Nos. 9, 13, 14 and 15
3/6f	Required for diversion of existing Northern Gas Networks pipelines and construction of associated gas transfer station building adjacent to northbound carriageway. Grouting works under land.	Work Nos. 10, 14 and 15
3/6g, 3/6h	Required for access to the works within junction 67 (Coal House) Roundabout.	Work Nos. 12 and 16
3/6i	Required for access to the works within junction 67 (Coal House) Roundabout.	Work Nos. 12, 15 and 16
3/6k	Required for construction compound. Grouting works under land.	N/A

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
3/6m, 3/7, 3/8, 3/9	Required for access to the works within junction 67 (Coal House) Roundabout.	Work No. 16
3/10a	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment.	Work Nos. 5a, 5b and 23
3/10d	New right to demolish the existing Allerdene Bridge and construct, operate, access and maintain a replacement offline Allerdene Bridge structure and for grouting works on the land underneath the proposed new structure.	Work Nos. 5a, 5b and 23
3/10h	New right to construct, operate, access and maintain a replacement offline Allerdene Bridge structure, associated Overhead Line Equipment and for grouting works on the land underneath the proposed new structure.	Work Nos. 4a, 4b, 5a, 5b and 23
3/10i	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment.	Work Nos. 4a, 4b, 5a, 5b and 23
3/12b	Required to access and carry out the demolition of the existing Allerdene Bridge, the construction of the replacement Allerdene Bridge and associated Overhead Line Equipment, and for grouting works on the land underneath the proposed new structure.	Work Nos. 4a, 4b, 5a, 5b and 23
3/13a	Required for the construction compound for Allerdene Bridge and associated access.	N/A

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(1) <i>Plot Reference Number shown on Land Plan</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
Land Plans – Sheet 4		
4/1m	Realignment of junction 66 southbound on slip road.	Work No. 7b
4/1p	Required for the construction compound at junction 66 (Eighton Lodge) and associated access.	N/A
4/2a, 4/2b	Required for the temporary stopping up of footpath that runs parallel to A167 Durham Road from Angel of the North to junction 66 (Eighton Lodge).	N/A
4/2d	New right to extend the Longbank Bridleway Underpass and operate, access and maintain the structure and associated equipment.	Work Nos. 6a and 19
4/2e	Required to construct the extension of Longbank Bridleway Underpass, including temporary working space and diversions for pedestrians during the Underpass closure.	Work Nos. 6a and 19
4/3a	Required for utility diversions and associated works within junction 66 (Eighton Lodge) Roundabout.	Work No. 6a
4/3b	Required for utility diversions and associated works within junction 66 (Eighton Lodge) Roundabout. Grouting works under land.	Work No. 6a
4/3i, 4/3j, 4/3m, 4/3n, 4/3p, 4/4a, 4/4c, 4/4d, 4/4e, 4/4f, 4/5	Required for the construction compound at junction 66 (Eighton Lodge) and associated access.	N/A
4/3q, 4/4b	Required for the construction compound at junction 66 (Eighton Lodge) and associated access. Grouting works under land.	N/A

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
4/6a	Required to construct the extension of Longbank Bridleway Underpass, including temporary working space and diversions for pedestrians during the Underpass closure.	Work Nos. 6a and 19
4/6b	Required to construct the extension of Longbank Bridleway Underpass, including temporary working space and diversions for pedestrians during the Underpass closure. Grouting works under land.	Work Nos. 6a and 19
4/7b, 4/7e	Required to carry out the demolition and construction of the replacement North Dene Footbridge and for temporary diversion of pedestrians during closure of the Footbridge. Grouting works under land.	Work No. 18
4/7c	Required to carry out the Longbank Underpass and for temporary diversion of pedestrians during closure of the Footbridge.	Work No. 19
4/8	Required to carry out the demolition and construction of the replacement North Dene Footbridge and for temporary diversion of pedestrians during closure of the Footbridge.	Work No. 18
4/9a	Required to construct the proposed highway widening works and for construction access.	Work Nos. 6a and 6b
4/12a	Required for access, alteration and maintenance of existing discharge outlet pipelines.	Work No. 6b
4/12b, 4/13b, 4/13d	Required to carry out the demolition and construction of the replacement North Dene Footbridge and for temporary	Work No.18

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<i>(1)</i> <i>Plot Reference Number shown on Land Plan</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
	diversion of pedestrians during closure of the Footbridge. Grouting works under land.	
4/13e, 4/13f, 4/14c	Required to carry out the demolition and construction of the replacement North Dene Footbridge and for temporary diversion of pedestrians during closure of the Footbridge.	Work No. 18
4/14b	Required to carry out the demolition and construction of the replacement North Dene Footbridge and for grouting works under land.	Work No.18
4/15, 5/1a, 5/1b	Required to construct the proposed highway works and for utility diversions.	Work No. 6b
Land Plans – Sheet 5		
5/3b, 5/4b, 5/4d	Required for access and construction of main highway works and junction 65 (Birtley) off slip. Grouting works under land.	Work Nos. 6a and 8a
5/5a	Required to construct the proposed highway works and associated access. Grouting works under land.	Work No. 8a
5/5c, 5/5e, 5/10b	Required for access and construction of junction 65 (Birtley) northbound on-slip road works.	Work Nos. 6b and 8b
5/6, 5/7, 5/8, 5/9, 5/11	Required for construction of junction 65 (Birtley) southbound off slip road works and temporary footpath diversion. Grouting works under land.	Work No. 8a

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SCHEDULE 9

Article 38

TREES SUBJECT TO TREE PRESERVATION ORDER

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Type of tree</i>	<i>Work to be carried out</i>	<i>Relevant part of the authorised development</i>
TPO area No. 21 located adjacent to Banesley Lane (multiple species).	Potential removal of trees to the north of Banesley Lane to enable the Junction 67 (Coal House) northbound on slip road works.	Work No 3d

SCHEDULE 10

Article 39

SCHEDULED MONUMENTS

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Type of monument</i>	<i>Work to be carried out</i>	<i>Relevant part of the authorised development</i>
Bowes Railway Scheduled Monument (1003723), a partly preserved standard gauge rope haulage railway with associated structures and apparatus. Included within the monument are the colliery and railway workshops which comprised the former Springwell Colliery.	The extension of the north side of the underpass requiring the extension of the corrugated metal structure and the demolition of stone retaining walls (up to a maximum of 17 metres in length) on either side of the former trackbed of the Bowes Railway. Works will include the excavation of two foundation trenches, each 15-17m in length, the insertion of piles at every 1m within the trenches, construction of the tunnel, repairs to the scheduled monument equal to the length of the retaining walls to be removed, insertion of drainage, access on to the monument during construction from site compounds, access after construction for public right of way and bridleway access and the location and fixing of an interpretation board.	Work No. 19

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SCHEDULE 11

Articles 34 and 43

PROTECTIVE PROVISIONS

PART 1

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

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

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility 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(15)), 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(16) 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(17); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4)(18) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104(19) (agreements to adopt sewers, drains or sewage disposal works at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) 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 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;

(15) 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).

(16) 1986 c. 44. A new section 7 was substituted by section 3 of the Gas Act 1995 (c. 45) and was further amended by section 76 of the Utilities Act 2000.

(17) 1991 c. 56.

(18) Section 102(4) was amended by sections 96(1)(c) and 101(2) of, and Part 3 of Schedule 9 to, the Water Act 2003 (c. 37).

(19) Section 104 was amended by sections 96(4) of, and Part 3 of Schedule 9 to, the Water Act 2003, section 42(3) of the Flood and Water Management Act 2010 (c. 29) and section 11(1) and (2) of, and paragraphs 2 and 91 of Schedule 7 to the Water Act 2014 (c. 21).

“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;

“utility undertaker” means—

- (e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (g) a water undertaker within the meaning of the Water Industry Act 1991; and
- (h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, 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 undertaker and the utility 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 16 (permanent stopping up and restriction of use of streets, public rights of way and private means of access), any utility 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 undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker 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 15 (temporary stopping up and restriction of use of streets), a utility 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 undertaker, in the case of the powers conferred by article 21 (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 undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until

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alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 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 a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker 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 undertaker, or the undertaker 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 the utility undertaker must, on receipt of a written notice to that effect from the undertaker, 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.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 46, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (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 undertaker to be removed under the provisions of this Part of this Schedule.

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

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker 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 undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker 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 utility 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 undertaker to that utility 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 undertaker under paragraph 7(2), the undertaker must submit to the utility 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 utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

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

(5) Nothing in this paragraph precludes the undertaker 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 undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility 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.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility 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).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), 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 undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (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 utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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(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 a utility 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 utility 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 any such works referred to in paragraphs 5 or 7(2), 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 a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility 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 a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

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

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker 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 part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker 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 utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

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

PART 2

FOR THE PROTECTION OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

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

15. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003⁽²⁰⁾;

“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;

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure 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 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker 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;

“electronic communications network” has the same meaning as in section 32(1) of the Communications Act 2003;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

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

16. The exercise of the powers conferred by article 34 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

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 undertaker 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 undertaker 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.

(20) 2003 c. 21.

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(3) The operator must give the undertaker 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 undertaker 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 undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 46 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker 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.

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

PART 3

FOR THE PROTECTION OF RAILWAY INTERESTS

18. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 32, any other person on whom rights or obligations are conferred by that paragraph.

19. In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of powers under section 8 (licences) of the Railways Act 1993⁽²¹⁾.

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 (meaning of “subsidiary” etc.) of the Companies Act 2006⁽²²⁾) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“protective works” means any works specified by the engineer under paragraph 22;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

(21) 1993 c. 43.

(22) 2006 c. 46.

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
 - (b) any easement or other property interest held or used by Network Rail for or connected with the purposes of such railway or works, apparatus or equipment; and
- “specified work” means so much of any of the authorised development as is, or is to be, situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and includes any authorised development carried out within parcels 3/10c, 3/10d, 3/10e, 3/10f, 3/10g, 3/10h, 3/10i, 3/12a, 3/12b, 3/12c, 3/12d, 3/12e and 3/12f.

20.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property or rights over railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development under this Order.

21.—(1) The undertaker must not exercise the powers conferred by articles 20 (discharge of water), 22 (authority to survey and investigate land), 23 (compulsory acquisition of land), 26 (compulsory acquisition of rights and restrictive covenants), 27 (private rights over land), 30 (acquisition of subsoil or air-space only), 31 (rights under or over streets), 32 (temporary use of land for carrying out the authorised development), 33 (temporary use of land for maintaining the authorised development), 34 (statutory undertakers), 37 (felling or lopping of trees and removal of hedgerows) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act or by section 203 (power to override easements and rights) of the Housing and Planning Act 2016⁽²³⁾ in respect of any railway property and leasehold interests forming part of parcels 3/10c, 3/10d, 3/10e, 3/10f, 3/10g, 3/10i, 3/12a, 3/12b, 3/12c, 3/12d, 3/12e and 3/12f unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of telecommunications code system operators: preliminary notices) of the 1990 Act, or article 34 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use, or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent under this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

(23) 2016 c. 22.

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22.—(1) The undertaker must, before commencing construction of any specified work, supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 46 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

23.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 22(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 22;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on it and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work or a protective work, the undertaker must, regardless of any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents, or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or the undertaker's employees, contractors or agents.

24. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work or protective work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or protective work or the method of constructing it.

25. Network Rail must at all reasonable times afford reasonable facilities to the undertaker and the undertaker's agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as the undertaker may reasonably require with regard to such works or the method of constructing them.

26.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work or a protective work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work or a protective work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work or protective work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work or protective work is to be constructed, Network Rail must assume construction of that part of the specified work or protective work and the undertaker must, regardless of any such approval of a specified work or protective work under paragraph 22(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work or protective work.

(3) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to Network Rail under this paragraph.

(4) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 27(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

27. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 22(3) or in constructing any protective works under the provisions of paragraph 22(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work or a protective work;

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- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watchkeepers and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work or a protective work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or a protective work or from the substitution of diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work or a protective work.

28.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus;

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 22(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 22(1) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified under sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified under sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution may be selected at the reasonable discretion of Network Rail, and in relation to such modifications paragraph 22(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the completion of the authorised development and regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to

be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus under subparagraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved under those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 23.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 32(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 27(a) any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 46 (arbitration) to a single arbitrator to be agreed between the parties is to be read as a reference to an arbitrator being a member of the Institution of Engineering and Technology to be agreed.

29. If at any time after the completion of a specified work or a protective work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work or protective work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work or protective work in such state of maintenance as to not adversely affect railway property.

30. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work or a protective work in the vicinity of any railway belonging to Network Rail unless the undertaker has first consulted Network Rail and the undertaker must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

31. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work or a protective work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

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32.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or a protective work or the failure of it; or
- (b) by reason of any act or omission of the undertaker or of any person in the undertaker's employ or of the undertaker's contractors or others whilst engaged upon a specified work or a protective work,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or a protective work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this subparagraph.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior written consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) may include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator under sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or a protective work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 (licences) of the Railways Act 1993.

33. Network Rail must, on receipt of a request from the undertaker, at a frequency to be agreed between the undertaker and Network Rail, provide the undertaker free of charge with written estimates of the costs, charges, expenses, future cost forecasts and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 32) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part of this Schedule (including any claim relating to those relevant costs).

34. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

35. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works plans or land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property;
- (c) and any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

36. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

37. The undertaker must give written notice to Network Rail where any application is required and is proposed to be made for the Secretary of State's consent under article 9 (consent to transfer benefit of the Order) and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the decision-maker to whom the application is to be made.

38. The undertaker must no later than 28 days from the date that the documents referred to in article 44(1) (certification of plans, etc.) are submitted to and certified by the Secretary of State in accordance with article 44, provide a set of those documents to Network Rail a format to be agreed between the undertaker and Network Rail's engineers.

PART 4

FOR THE PROTECTION OF NORTHUMBRIAN WATER LIMITED

39.—(1) For the protection of Northumbrian Water Limited the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northumbrian Water Limited.

40. In this part of this schedule—

“alternative apparatus” means any temporary or permanent alternative apparatus adequate to enable Northumbrian Water to fulfil its statutory function in a manner no less efficient than previously;

“apparatus” means the following items within the Order limits (except where paragraph 47(7) applies)—

- (a) in the case of Northumbrian Water's water undertaking—
 - (i) mains, pipes, wells, boreholes, tanks, service reservoirs, pumping stations or other apparatus, structure, tunnel, shaft or treatment works or accessories (as defined in section 219(1) (general interpretation) of the Water Industry Act 1991) belonging to or maintained or used by Northumbrian Water for the purposes of water supply; and
 - (ii) any water mains or service pipes which are the subject of a notice of intention to adopt under section 51A(24) (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991; and

(24) Section 51A was inserted by section 9291) of the Water Act 2003 (c. 37).

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- (b) in the case of Northumbrian Water’s sewerage undertaking—
- (i) any sewer, drain or disposal works vested in Northumbrian Water under the Water Industry Act 1991;
 - (ii) any sewer, drain or disposal works which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories (as defined in section 219(1) of the Water Industry Act 1991) forming part of any such sewer, drain or works, and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“emergency” means a situation which—

- (c) is unexpected, in that there is little or no prior warning, or aspects of the event could not have reasonably been predicted in advance;
- (d) is a serious event presenting a risk of harm or damage to people, property or the environment; and
- (e) requires a need for urgent action, in that immediate action is required to address the risk of harm, repair or prevent a worsening of the situation;

“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;

“Northumbrian Water” means Northumbrian Water Limited, a company incorporated and registered in England and Wales with registered company number 02366703 whose registered office is at Northumbria House, Abbey Road, Pity Me, Durham DH1 5FJ;

“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.

On street apparatus

41. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Northumbrian Water are regulated by the provision of Part 3 of the 1991 Act.

Apparatus in stopped up streets

42.—(1) Where any street is stopped up under article 16 (permanent stopping up and restriction of use of streets, public rights of way and private means of access), if Northumbrian Water has any apparatus in the street, Northumbrian Water is entitled to the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Northumbrian Water legal easements reasonably satisfactory to Northumbrian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Northumbrian Water to require the removal of that apparatus under paragraph 44 or the power of the undertaker to carry out works under paragraph 46.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 15 (temporary stopping up and restriction of use of streets), Northumbrian Water 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

43. The undertaker, in the case of the powers conferred by article 21 (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

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

Removal of apparatus

45.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northumbrian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northumbrian Water 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 Northumbrian Water in accordance with sub-paragraphs (2) to (8).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northumbrian Water 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 Northumbrian Water reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northumbrian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for access to and 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 undertaker, or the undertaker, after using all reasonable endeavours 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 Northumbrian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northumbrian Water and the undertaker both acting reasonably with a view to securing the efficient implementation of the necessary work, the avoidance of unnecessary delay and the continued fulfilment by both parties of their service obligations, which in the case of Northumbrian Water shall be to a standard no less than that achieved prior to the removal of the apparatus which the alternative apparatus replaces, or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(5) Northumbrian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 46 (arbitration), and after the grant to Northumbrian Water of any such facilities and rights as are referred to in sub-paragraphs 45(2)

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or 45(3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this part of this schedule.

(6) Regardless of anything in sub-paragraph 45(5), if the undertaker gives notice in writing to Northumbrian Water that the undertaker intends to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by Northumbrian Water, may, subject to the written consent of Northumbrian Water, which shall not be unreasonably withheld, and in accordance with Northumbrian Water's requirements and specifications, be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Northumbrian Water.

(7) Nothing in sub-paragraph 45(6) authorises the undertaker to execute the placing, installation bedding, packing, removal, connection or disconnection of any apparatus, or execute the filling around the apparatus (where apparatus is laid in a trench) within 300 millimetres of apparatus.

(8) When alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use all reasonable endeavours to comply with Northumbrian Water's reasonable requests for a reasonable period of time to enable Northumbrian Water to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

46.—(1) Where, in accordance with the provisions of this part of this schedule, the undertaker affords to Northumbrian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such reasonable terms and conditions as may be agreed between the undertaker and Northumbrian Water or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus the arbitrator must:

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker or the traffic on the highway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted and have regard to Northumbrian Water's statutory obligations.

(3) If the facilities and rights to be afforded by the undertaker 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 Northumbrian Water 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 undertaker to Northumbrian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(4) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting (England and Wales) Regulations 2016(25) or other legislation.

Retained apparatus

47.—(1) Not less than 56 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 undertaker under paragraph 45(2), the undertaker must submit to Northumbrian Water a plan, section and description of the works to be executed, together with an assessment of the impact of the works and proposed measures for the protection of Northumbrian Water’s apparatus.

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

(3) Any requirements made by Northumbrian Water under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) is submitted to it.

(4) If Northumbrian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 39 to 41 and 44 to 46 apply as if the removal of the apparatus had been required by the undertaker under paragraph 45(2).

(5) Nothing in this paragraph precludes the undertaker 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, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give, to Northumbrian Water, notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) For the purposes of sub-paragraph (1), works are deemed to be in land near Northumbrian Water’s apparatus (where it is a relevant pipe, as defined in section 158(7) (powers to lay pipes in streets) of the Water Industry Act 1991) if those works fall within the following distances measured from the edge of such apparatus—

- (a) where it is a water main—
 - (i) 3 metres where the diameter of the water main is up to and including 300 millimetres;
 - (ii) 4.5 metres where the diameter of the water main is greater than 300 millimetres, up to and including 600 millimetres; and
 - (iii) 6 metres where the diameter of the water main is greater than 600 millimetres; and
- (b) where it is a sewer, 6.5 metres.

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Expenses and costs

48.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northumbrian Water all costs, charges and expenses which Northumbrian Water may reasonably incur or have to pay or which it may sustain 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 45(2), including any costs reasonably incurred in connection with the acquisition of rights under paragraph 45(3) and in watching and inspecting the execution of works under paragraph 47(2) and in making reasonable requirements under paragraph 47(3).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule is to be deducted from any sum payable under sub-paragraph (1), 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 except where this has been solely due to using the nearest currently available type; 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 except where the placing of apparatus at a different depth is required solely to achieve an equivalent capability and function to the existing apparatus,

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 undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (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 Northumbrian Water 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;
- (b) the provision of additional manholes, valves or wash-out pipes, where required to comply with design standards, must not be treated as a placing of apparatus of better type, of greater capacity or of greater dimensions than those of the existing apparatus; and
- (c) 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 Northumbrian Water 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 seven years and six months earlier so as to confer on Northumbrian Water 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.

(6) Subject to sub-paragraphs (7) and (8), if by reason or in consequence of the construction, maintenance or failure of any of the authorised development by or on behalf of the undertaker or any such works referred to in paragraphs 43, 45(2) or 47(1), or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, 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 Northumbrian Water, or there is any interruption in any service provided or of any access to any apparatus, or in the supply of any goods or services, by Northumbrian Water or the performance of Northumbrian Water's functions, or any disruption to the normal operation of Northumbrian Water's apparatus resulting in an increase in the costs incurred by Northumbrian Water in performing its functions or in any loss, damages or penalty or fines, or Northumbrian Water becoming liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand the cost reasonably incurred by Northumbrian Water in making good such damage or restoring the supply or service;
- (b) make reasonable compensation for any loss sustained by Northumbrian Water; and
- (c) indemnify Northumbrian Water against claims, demands, proceedings, damages, penalty or costs incurred by or recovered from Northumbrian Water,

by reason or in consequence of any such damage or interruption or disruption or Northumbrian Water becoming liable to any third party as aforesaid.

(7) The fact that any act or thing may have been done by Northumbrian Water on behalf of the undertaker or in accordance with a plan approved by Northumbrian Water or in accordance with any requirement of Northumbrian Water or under its supervision does not, subject to paragraph 47(8), excuse the undertaker from liability under the provisions of paragraph 47(6).

(8) Nothing in paragraph 47(6) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Northumbrian Water, its officers, servants, contractors or agents.

(9) Northumbrian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker 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.

(10) Any difference arising between the undertaker and Northumbrian Water under this Part of this Schedule must be referred to and settled by arbitration under article 46 (arbitration).

Access

49. If in consequence of the exercise of the powers conferred by the Order the access to any apparatus or land owned by Northumbrian Water and used by it for the purpose of its statutory functions is materially obstructed, the undertaker must provide such alternative means of access to that apparatus or land as will enable Northumbrian Water to maintain or use the apparatus or use the land for the purpose of its statutory functions no less effectively than was possible before the obstruction.

Co-operation

50.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northumbrian Water requires the removal of apparatus under paragraph 45(2) or Northumbrian Water makes requirements for the protection or alteration of apparatus under paragraph 47(2), the undertaker must use all reasonable 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 Northumbrian Water's undertaking and Northumbrian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

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(2) Where the undertaker identifies any apparatus, which may belong to or be maintainable by Northumbrian Water but which does not appear on any statutory map kept for the purpose by Northumbrian Water, it shall inform Northumbrian Water of the existence and location of the apparatus as soon as reasonably practicable.

(3) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northumbrian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

SCHEDULE 12

Article 44

DOCUMENTS TO BE CERTIFIED

The reference to a document in the table with a numbered regulation is a reference to the regulation as numbered in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Document</i>	<i>Document Reference</i>	<i>Revision</i>
Plans, Drawings and Sections		
Location Plan – Regulation 5(2)(o)	TR010031/APP/2.1	Revision 2 – Examination Deadline 4 Update
Land Plans – Regulation 5(4) and 5(2)(i)	TR010031/APP/2.2	Revision 3 – Examination Deadline 4 Update
Works Plans – Regulation 5(4) and 5(2)(j)	TR010031/APP/2.3	Revision 3 – Examination Deadline 4 Update
Streets, Rights of Way and Access Plans – Regulation 5(4) and 5(2)(k)	TR010031/APP/2.4	Revision 2 - Examination Deadline 4 update
Engineering Drawings and Sections – Regulations 5(4), 5(2)(o) and 6(2)	TR010031/APP/2.5	Revision 2 – Examination Deadline 4 Update
General Arrangement Drawings – Regulation 5(4) and 5(2)(o)	TR010031/APP/2.6	Revision 2 – Examination Deadline 4 Update
Structures Engineering Drawings and Sections - Regulation 5(4) and 5(2)(o)	TR010031/APP/2.7	Revision 2a – Examination Deadline 4 Update
Special Category Land Plans – Regulation 5(4) and 5(2)(i)	TR010031/APP/2.8	Revision 3 – Examination Deadline 4 Update
Northern Gas Networks Land Ownership Plan	EXA/D9/010	Revision 0 – Examination Deadline 9 Issue
Southern Green Options Report	EXA/D10/011	Revision 0 – Deadline 9 Issue
Compulsory Acquisition Information		

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(1)	(2)	(3)
<i>Document</i>	<i>Document Reference</i>	<i>Revision</i>
Book of Reference	TR010031/APP/4.3	Revision 4 - Deadline 11 Update
Reports and Statements		
Statement of Statutory Nuisance	TR010031/APP/5.2	Revision 0 – Application Issue
Environmental Impact Assessment (EIA) Information		
Environmental Statement – Volume 1: Chapters	TR010031/APP/6.1	Revision 0 – Application Issue
Environmental Statement – Volume 2: The Figures	TR010031/APP/6.2	Revision 0 – Application Issue
Environmental Masterplan Regulation 5(2)(a) - Figure 2.4	TR010031/APP/6.2	Revision 0 – Application Issue
Environmental Statement – Volume 3: Appendices	TR010031/APP/6.3	Revision 0 – Application Issue
Scoping Opinion and Scoping Opinion Response Table – Appendix 4.1 of the ES	TR010031/APP/6.3	Revision 0 – Application Issue
Flood Risk Assessment – Appendix 13.1	TR010031/APP/6.3	Revision 0 – Application Issue
Habitat Regulation Assessment – Appendix 8.2	TR010031/APP/6.3	Revision 0 – Application Issue
Environmental Statement – Volume 4: Non-Technical Summary	TR010031/APP/6.4	Revision 0 – Application Issue
Plan and Assessment of Nature Conservation – Figures 8.1, 8.2, 13.8; Chapter 7, 8 and 13 of the ES; Appendix 13.2 of the ES	TR010031/APP/6.2; TR010031/APP/6.1; TR010031/APP/6.3	Revision 0 – Application Issue and
Plan and Assessment of Historic Environmental Effects – Figures 6.1 and 6.2; and Chapter 6 of the ES	TR010031/APP/6.2 TR010031/APP/6.1	and Revision 0 – Application Issue
Environmental Statement Addendum (including updates to Figure 8.1)	TR010031/APP/6.1	Revision 0 – Section 51 Issue
Environmental Statement Addendum 1 to Volume 1 of the Environmental Statement	TR010031/TBC	Revision 1 – Issue for Preliminary Meeting
Environmental Statement Addendum – Additional Land	EXA/D4/009	Revision 0 – Examination Deadline 4 Issue
Environmental Statement Addendum – Additional Land	EXA/D6/004	Revision 0 – Examination Deadline 6 Issue

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<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Document</i>	<i>Document Reference</i>	<i>Revision</i>
– Appendix C: Update to Preliminary Ecological Appraisal: Updated to incorporate Preliminary Bat Roost Assessment		
Environmental Statement Addendum (Non-Technical Summary) – Additional Land	EXA/D4/010	Revision 1 – Examination Deadline 5 Issue
Environmental Statement Addendum – 3 span viaduct	EXA/D4/011	Revision 0 – Examination Deadline 4 Issue
Environmental Statement Addendum (Non-Technical Summary) – 3 span viaduct	EXA/D4/012	Revision 0 – Examination Deadline 4 Issue
Other Documents		
Outline Environmental Plan (CEMP)	Construction Management TR010031/APP/7.4	Revision 6 – Examination Deadline 11 Update