

## SCHEDULE 2

Article 2

### Requirements

## PART 1

### Requirements

#### Interpretation

**1.** In this Schedule—

“AOD” means above Ordnance Datum;

“commissioning” means the process during which plant components and systems forming part of the authorised development, having been constructed or modified, are made operational and are tested and verified to be in accordance with design assumptions and to have met the appropriate safety criteria;

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

“CTMP” means construction traffic management plan;

“DEMP” means decommissioning environmental management plan;

“discharging authority” means any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement;

“LEMP” means the landscape and ecology management plan;

“requirement consultee” means any body named in a requirement as a body to be consulted by the discharging authority in discharging that requirement; and

“stage” means the works and ancillary works, or parts thereof, to be carried out together as a phase of, or in a defined order within, the construction of the authorised development.

#### Time limits

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

(2) Notice of commencement of the authorised development must be given to the relevant planning authorities no later than 14 days before the date on which the authorised development is intended to be commenced.

#### Stages of authorised development

**3.** The authorised development may not commence until a written scheme setting out all stages of the authorised development and including a plan indicating when each stage will be implemented, has been submitted to each relevant planning authority.

(a) The written scheme submitted under this sub-paragraph may be amended by the undertaker. Where any amended written scheme is submitted under this sub-paragraph, any prior submitted written scheme will be held to be superseded.

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(1) 1990 c.43.

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(b) Any amended written scheme must be submitted to each relevant planning authority before any amendment may take effect for the purpose of sub-paragraph (4).

4.—(1) The description of each stage in the written scheme to be submitted under sub-paragraph (1) must include the Work No(s) of the works within that stage.

(2) More than one stage may be planned to be undertaken concurrently.

(3) The authorised development must be implemented in accordance with the written scheme submitted under sub-paragraph (1).

### Scheme design

5.—(1) The authorised development must be carried out in general accordance with the general arrangement plans. The authorised development will not be in general accordance with the general arrangement plans if any departure from the general arrangement plans would give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(2) The authorised development must be designed in accordance with the parameters specified in Table 1 below and the works plans and implemented in accordance with approved plans and any other approvals given by the relevant planning authority pursuant to these requirements.

**Table 1**

<i>Work Type</i>	<i>Parameter</i>	<i>Part(s) of the authorised development</i>	<i>Maximum value(s) and unit</i>
AGI	Maximum fenced area of Ince AGI	Work No. 1	1,800m <sup>2</sup>
AGI	Maximum fenced area of Stanlow AGI	Work No. 9	2,656m <sup>2</sup>
AGI	Maximum fenced area of Northop Hall AGI	Work No.45	1,155m <sup>2</sup>
AGI	Maximum fenced area of Flint AGI	Work No.48	5,600m <sup>2</sup>
AGI	Maximum height of buildings and structures	Work Nos. 1, 9, 45 and 48	5m from ground level
AGI	Maximum width of new permanent accesses	Work Nos. 2, 8, 10, 46 and 49	6m
AGI	Maximum height of fencing and gating	Work No. 1, 9, 45, 48	3m from ground level
BVS	Maximum fenced area of BVS	Work No. 20, 26, 36, 51, 53, 55	1,050m <sup>2</sup>
BVS	Maximum height of buildings and structures	Work Nos. 20, 26, 36, 51, 53 and 55	5m from ground level
BVS	Maximum height of fencing and gating	Work Nos. 20, 26, 36, 51, 53 and 55	3m from ground level
BVS	Maximum width of new permanent accesses	Work No. 21, 27, 37, 52, 54 and 56	3m

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<i>Work Type</i>	<i>Parameter</i>	<i>Part(s) of the authorised development</i>	<i>Maximum value(s) and unit</i>
Construction compound	Maximum height of fencing and gating	Work No. 6B, 15A, 19A, 30A, 30D, 31A, 41A and 44C	2.4m from ground level
Construction Compound	Maximum fenced area of Stanlow Compound	Work No. 6B	66,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Picton Lane Compound	Work No. 15A	32,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Chorlton Lane Compound	Work No. 19A	41,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Wood Farm Compound	Work No. 30D	90,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Sealand Road Compound	Work No. 30A	48,000m <sup>2</sup>
Construction Compound	Maximum fenced area of River Dee Compound	Work No. 31A	43,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Shotton Lane Compound	Work No. 41A	37,000m <sup>2</sup>
Construction Compound	Maximum fenced area of Northop Hall Compound	Work No. 44C	35,000m <sup>2</sup>

(3) The buildings and structures identified in Table 1 must only be constructed within the area for the Work No. of which they form part as shown in the works plans.

(4) Each of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may not be commenced until, for that Work No. the following details have been submitted to and approved by the relevant planning authority:

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) details of permanent accesses to the public highway;
- (c) details of any external lighting; and
- (d) details of the noise ratings of any external machinery or potentially noisy installations (such as fans).

(5) No part of Work No. 43E may be commenced until details of the design and construction methodology of any works have been submitted to and approved by the relevant planning authority following consultation with Natural Resources Wales.

(6) The details submitted under sub-paragraph (5) must be accompanied by flood risk assessment showing the maximum water level reached in a 1 in 100 year event plus 40% climate change scenario. The soffit level of the embedded pipe bridge over the Alltami brook must be set no less than 300 millimetres above that maximum water level. The flood consequences assessment must also demonstrate that the impacts of the proposal on flood risk elsewhere can be managed to an acceptable level.

(7) Where the position of the abutments of Work No. 43E require the stopping up of part of the current route of Footpath 414/39A, the details submitted under sub-paragraph (5) must include a scheme setting out the alternative route and specification for the permanent diversion of the part of

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public right of way Footpath 414/39A to be stopped up, and setting out how that alternative is to be legally created.

(8) The works listed in sub-paragraph (4) and (5) must be implemented in accordance with the details approved under this paragraph.

### **Construction environmental management plan**

6.—(1) No stage of the authorised development must commence until a CEMP which includes that stage has been submitted to and approved by the relevant planning authority following consultation with the Environment Agency and/or the Lead Local Flood Authority.

(2) The CEMP must be in accordance with the outline construction environment management plan and include management plans, working methods and mitigation measures including—

- (a) details of lighting during construction;
- (b) noise and vibration management plan;
- (c) dust management plan;
- (d) material management plan;
- (e) soil management plan;
- (f) peat management plan;
- (g) waste management plan;
- (h) groundwater management and monitoring plan;
- (i) bio-security management plan;
- (j) surface water management and monitoring plan;
- (k) dewatering management plan;
- (l) stakeholder communications plan; and
- (m) public rights of way management plan.

(3) Each stage of the authorised development must be implemented in accordance with the approved CEMP for that stage.

### **Construction traffic**

7.—(1) Save in respect of matters approved in accordance with articles 13 (temporary restriction of public rights of way) and 15 (temporary restriction of use of streets) no stage of the authorised development must commence until a CTMP for that stage, in accordance with the outline construction traffic management plan, has been submitted to and approved by the relevant planning authority following consultation with the relevant highway authority.

(2) The CTMP for each stage must include a construction logistics plan to manage delivery of goods and materials.

(3) The CTMP for each stage must include a construction worker travel plan in accordance with the interim worker travel plan and include measures to be taken to promote sustainable travel options and minimise use of private vehicles.

(4) Each stage of the authorised development must be implemented in accordance with the approved CTMP for that stage.

### **Highway accesses**

**8.**—(1) Construction of any new permanent or temporary means of access to a highway, or alteration, or use of an existing means of access to a highway, must not commence until an access plan for that access has been submitted to and approved by the relevant highway authority.

(2) The access plan must include details of the siting, design, layout, visibility splays, access management measures and a maintenance programme relevant to the access it relates to.

(3) The relevant highway authority must be consulted on the access plan before it is submitted for approval.

(4) The highway accesses (including visibility splays) must be implemented in accordance with the approved details.

### **Surface water drainage**

**9.**—(1) No development of Work Nos. 1, 9, 20, 26, 36, 45, 48, 51, 53 and 55 may commence until, for that Work No, a surface water drainage plan for permanent works relevant to that stage, in accordance with the relevant part of the outline surface water drainage strategy has been submitted to and approved by the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.

(2) The surface water drainage system for each stage must be implemented in accordance with the approved details.

(3) No discharge of water under article 20 (discharge of water) must be made until details of the location and rate of discharge have been submitted to the relevant planning authority or, where applicable, the Environment Agency and/or Natural Resources Wales and/or the Lead Local Flood Authority.

### **Contamination land and groundwater: Part A - Stanlow**

**10.**—(1) No intrusive works or any works which are likely to cause significant harm to persons or pollution of controlled waters or the environment, other than those necessary to undertake ground investigation for the purposes of identifying any contamination which may be present, can be carried out within plots 3-11, 3-12, 3-13, 3-14 and 3-15, unless and until either sub-paragraph (2) or sub-paragraph (3) has been complied with.

(2) The Environment Agency has confirmed in writing that any contamination of the plots listed in sub-paragraph (1) has been remediated to a standard which renders those plots fit for the use consented under this Order.

(3) The undertaker must:

(a) carry out further ground investigations within plots 3-11, 3-12, 3-13, and within the highway verges within plots 3-14 and 3-15, to identify any contamination present. The investigations must include testing for per- and polyfluoroalkyl substances.

(b) Where no contamination is identified under paragraph (a), the undertaker must submit a report of the investigations undertaken and the results thereof to the relevant planning authority; no works set out in sub-paragraph (1) may be undertaken unless and until the relevant planning authority, following consultation with the Environment Agency, has approved the report submitted.

(c) Where contamination is identified under paragraph (a), a written risk assessment must be completed by the undertaker in order to assess the nature and extent of any contamination. Where having regard to that risk assessment—

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- (i) the undertaker considers that remediation is required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency; or
  - (ii) the undertaker considers that remediation is not required, the risk assessment must be submitted to the relevant planning authority; or
  - (iii) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, not to be required, the relevant planning authority must approve the risk assessment and Work Nos. 5 and 7 may commence; or
  - (iv) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, to be required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency.
- (d) Where a remediation scheme is required under paragraph (c), the remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme, and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval before Work Nos 5 and 7 may be commenced. Such approval shall not be unreasonably withheld or delayed.

*Part B – other sites identified as requiring further investigation*

(4) No intrusive works or any works which are likely to cause significant harm to persons or pollution of controlled waters or the environment, other than those necessary to undertake ground investigation for the purposes of identifying any contamination which may be present, can be carried out within plots 1-25, 4-12, 4-20, 8-10 and 8-12 unless and until sub-paragraph (5) has been complied with.

(5) The undertaker must:

- (a) carry out further ground investigations within plots 1-25 (adjacent to Ince railway), plot 4-12 (in the former gateway), plots 8-10 and 8-12, and groundwater testing in plot 4-20 (to the north of the M56 motorway) to identify any contamination present.
- (b) Where no contamination is identified under paragraph (a), the undertaker must submit a report of the investigations undertaken and the results thereof to the relevant planning authority; no works in the plots set out in sub-paragraph (4) may be undertaken unless and until the relevant planning authority, following consultation with the Environment Agency, has approved the report submitted.
- (c) Where contamination is identified under paragraph (a), a written risk assessment must be completed by the undertaker in order to assess the nature and extent of any contamination. Where having regard to that risk assessment—
  - (i) the undertaker considers that remediation is required, a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency; or
  - (ii) the undertaker considers that remediation is not required, the risk assessment must be submitted to the relevant planning authority; and
  - (iii) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, not to be required, the relevant planning authority must approve the risk assessment and Works in the plots listed in sub-paragraph (4) may commence; or
  - (iv) remediation is determined by the relevant planning authority, following consultation with the Environment Agency, to be required, a detailed remediation scheme must be

prepared and submitted by the undertaker for the approval of the relevant planning authority in consultation with the Environment Agency.

- (d) Where a remediation scheme is required under paragraph (c), the remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme under sub-paragraph (5), and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval and such approval shall not be unreasonably withheld or delayed.

(6) Approval of the requirements of sub-paragraphs (4) and (5) may be sought and granted in stages provided that plots 1-19; 1-20; 1-21; 1-22; 1-23; 1-24 and 1-25 must all be contained within a single stage, plots 3-18; 4-19; 4-20; 5-01; 5-02; 5-03; 5-04 and 5-05 must all be contained within a single stage and plots 3-16; 4-11; 4-12; 4-13; 4-14; 4-15; 4-16; 4-17; and 4-18; must all be contained within a single stage. Nothing in this part of this requirement will prevent the commencement of works in any stage which does not contain any of the plots listed in sub-paragraph (4).

#### *Part C – unexpected contamination*

(7) In the event that contamination is found at any time when carrying out the authorised development it must be reported in writing to the relevant planning authority as soon as reasonably practicable.

(8) Where contamination has been reported to the relevant planning authority in accordance with sub-paragraph (7), an investigation and risk assessment must be completed by the undertaker in accordance with a contamination scheme to assess the nature and extent of any contamination on the part of the Order limits within which works are being carried out, whether or not that contamination originates on that part of the Order limits and—

- (a) the contents of that contamination scheme are subject to the approval of the relevant planning authority; and
- (b) that investigation and risk assessment must be undertaken by the undertaker within timescales agreed with the relevant planning authority and in accordance with the approved contamination scheme, and a written report of the findings must be submitted to the relevant planning authority.

(9) Where remediation is determined by the relevant planning authority to be required having had regard to the results of an investigation and risk assessment carried out under sub-paragraph (8), a detailed remediation scheme must be prepared and submitted by the undertaker for the approval of the relevant planning authority.

(10) Unless otherwise agreed by the relevant planning authority, no intrusive works or other works which would disturb the contaminated land or groundwater can be carried out in the part of the Order limits in which the contamination is identified under sub-paragraph (7) until the investigation and risk assessment in accordance with sub-paragraph (8), and if required, a remediation scheme in accordance with sub-paragraph (9) has been submitted to and approved by the relevant planning authority.

(11) The remediation must be implemented by the undertaker in accordance with the approved detailed remediation scheme under sub-paragraph (9), and a verification report following completion of those remediation works must be submitted to the relevant planning authority for approval. Such approval shall not be unreasonably withheld or delayed.

#### **Archaeology**

**11.—(1)** The authorised development must be implemented in accordance with the outline archaeological written scheme of investigation.

(2) No stage of the authorised development with the potential to affect buried archaeological assets must commence until a written scheme for the investigation of areas of archaeological

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interest relevant to that stage (if any) as identified in the outline archaeological written scheme of investigation has been submitted to and approved by the relevant planning authority following consultation with Historic England or Cadw as appropriate.

(3) The scheme approved under sub-paragraph (1) must be in accordance with the outline archaeological written scheme of investigation, and identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

(4) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(5) Any archaeological works must be implemented in accordance with the approved scheme.

### **Landscape and ecological management plan**

**12.**—(1) Subject to sub-paragraph (3), no stage of the authorised development must commence until a LEMP, for that stage, in accordance with the outline landscape and ecological management plan, has been submitted to and approved by the relevant planning authority.

(2) The LEMP must include:

- (a) an implementation timetable;
- (b) measures for the protection of ancient woodland areas detailed within an arboricultural method statement and shown on a tree protection plan; and
- (c) measures for the protection of existing features adjacent to the Works as detailed in the Environmental Statement.

(3) Each stage of the authorised development must be implemented in accordance with the approved LEMP for that stage.

(4) If any tree, hedge or shrub planted as part of the approved landscape and ecological management plan within a period of twenty five years after planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, it must be replaced in the first available planting season with a specimen of the same species and size as originally planted unless a different species is otherwise approved by the relevant planning authority.

(5) Sub-paragraph (1) only applies to those stages of the authorised development in respect of which any landscape and ecological management measures are to be implemented by the undertaker, as identified in the outline LEMP.

### **Ecological surveys**

**13.** No stage of the authorised development may commence until it has been established by survey work whether any European protected species are present within the Order limits or may be affected by that stage of the authorised development.

### **Biodiversity Net Gain**

**14.**—(1) No development may commence until a scheme (which may comprise of up to 2 parts being one for within England and one for within Wales) securing the provision of BNG of 1% or greater for the priority habitats affected by the authorised development (as calculated using Natural England Biodiversity Metric 3.1, or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature consultation body), has been submitted to and approved in writing by the relevant planning authority. The scheme must set out measures to deliver and secure the maintenance for 30 years of the BNG provision.

(2) Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.



(3) The approved scheme shall be maintained in accordance with the scheme of maintenance secured for 30 years of the BNG provision under sub-paragraph (2).

### **Construction hours**

**15.**—(1) Subject to sub-paragraphs (2), (3) and (4), construction works must only take place between 0800 and 1800 on weekdays and 0800 to 1300 on Saturdays (except public and bank holidays), except in the event of an emergency unless a scheme for the carrying of those works specifying the hours in which they may be carried out has been submitted to and approved by the relevant planning authority. Where such a scheme is approved under this requirement, the works set out in that scheme must be carried out in accordance with the approved scheme.

(2) In the event of an emergency, notification of that emergency must be given to the relevant planning authority and the relevant highway authority as soon as reasonably practicable.

(3) The following operations may where necessary continue or take place outside the working hours referred to in sub-paragraph (1)—

- (a) trenchless construction techniques which cannot be interrupted;
- (b) filling, testing, dewatering and drying; and
- (c) commissioning of the pipeline works.

(4) Nothing in sub-paragraph (1) precludes—

- (a) the receipt of oversize deliveries to site and the undertaking of non-intrusive activities;
- (b) start-up and shut-down activities up to an hour either side of the stated working hours and undertaken in compliance with the CEMP;
- (c) works on a traffic sensitive street where so directed by the relevant highway authority; and
- (d) works to make construction sites safe in the event of extreme weather.

(5) In this Requirement—

“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;

“non-intrusive activities” means activities which would not create any discernible light, noise or vibration outside the Order limits;

“trenchless construction techniques which cannot be interrupted” means drilling, tunnelling, boring or similar construction methods used to create an underground route for the pipeline without trenching from the surface, and includes any necessary ancillary activities to that drilling, tunnelling or boring; but does not include operations to prepare for drilling, tunnelling and boring, and specifically does not include works of excavation of pits, or works to remediate the site of pits used for drilling, tunnelling and boring; and

“start-up and shut-down activities” includes personnel briefings, inspections, tool-box talks, inductions, health and safety works, deliveries, movement to place of work, unloading, maintenance and general preparation work; but does not include operation of heavy machinery for construction, or operation of generators or flood lights at work-fronts.

### **Operational noise**

**16.**—(1) Between 23.00 and 07.00 hours, noise arising from normal operation of the AGIs and BVSs may not exceed the rating levels identified in Table 15-23 of the environmental statement. Rating levels are applicable as a free field noise level at 1m from any residential property which is lawfully inhabited at the date of the making of this Order at the locations shown in Table 15-23.

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(2) The level set out in sub-paragraph (1) is to be as measured in accordance with British Standard 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound) and British Standard 7445-3:1991 (Description and measurement of environmental noise. Guide to application to noise limits) or any standards replacing those.

(3) Prior to the commencement of the authorised development, the undertaker must submit a plan to the relevant planning authorities for approval detailing how noise monitoring will be undertaken within a six month period beginning with the date of first operation of the authorised development. That plan must specify a monitoring location point for each AGI and BVS, which must be in as close proximity as the undertaker can lawfully access, or at the points representative of noise sensitive receptors, as shown in Table 15-23 of the environmental statement.

(4) Noise monitoring must be undertaken by the undertaker in accordance with the plan approved under sub-paragraph (3) and the results of this monitoring must be submitted by the undertaker to the relevant planning authority at the intervals set out in the plan.

(5) Where the results of the monitoring undertaken in accordance with sub-paragraphs (3) and (4), show any exceedance of the level set out in sub-paragraph (1), the undertaker must, within 10 working days, submit to the relevant planning authority for approval a mitigation plan detailing how the exceedance will be mitigated and including a timetable for implementing any works required to deliver such mitigation.

(6) The undertaker must comply with any plan approved under sub-paragraph (5).

#### **Provision of ‘as built’ details**

17. The undertaker must, within 3 months of the completion of the authorised development, provide to the relevant planning authorities details of—

- (a) the location and depth of each part of the Pipeline as it has been constructed;
- (b) any protective measures in place over any part of the Pipeline; and
- (c) the locations of pipeline markers.

#### **Restoration of land**

18. Subject to article 34 (temporary use of land for carrying out the authorised development), any land within the Order limits which is used temporarily for or in connection with construction must be reinstated to a condition fit for its former use, or such other condition as the relevant planning authority may approve, within 12 months of completion of the authorised development.

#### **Operational and maintenance environmental management plan**

19.—(1) The undertaker must, no later than three months prior to the planned completion of commissioning of the authorised development, submit to the relevant planning authorities the operational and maintenance environment management plan (or plans) which details the monitoring and management requirements of the authorised development, including post-construction monitoring.

(2) The operational and maintenance environment management plans submitted under sub-paragraph (1) must be in accordance with the outline operational and maintenance environment management plan, and developed having regard to the approved CEMP(s) and the LEMP(s).

(3) Operation of the authorised development must be implemented in accordance with the submitted operational and maintenance environment management plan(s).

### **Decommissioning environmental management plan**

**20.**—(1) The undertaker must, no later than six months prior to the planned permanent cessation of operation of the authorised development, submit to the relevant planning authorities for approval a DEMP.

(2) The DEMP submitted under sub-paragraph (3) must include- the details required by the demolition management plan and specifically including—

- (a) details of any below ground apparatus to be left in situ;
- (b) method statements for the decommissioning and dismantlement of above ground infrastructure;
- (c) traffic management plan for the decommissioning works; and
- (d) waste management plan for the decommissioning works.

(3) Decommissioning of the authorised development must be implemented in accordance with the approved DEMP.

### **Written approval**

**21.** Where under any of the requirements the approval or agreement of the relevant planning authority or another person or authority is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

**22.**—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or another discharging authority, the approved details must be carried out as approved unless an application for an amendment or variation is previously agreed, by the relevant planning authority or that other discharging authority as specified in the relevant requirement, in accordance with sub-paragraph (2) and in consultation with any body specified in the relevant requirement.

(2) No amendments to or variations from the approved details may be approved if their likely significant effects on the environment are not assessed in the environmental statement, or have not been subject to such further assessment as the relevant planning authority or that other discharging authority may require; provided that such approval must not be given except where it has been demonstrated that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

(3) The approved details must be taken to include any amendments that may subsequently be approved by the relevant planning authority or that other discharging authority.

(4) Subject to sub-paragraph (2), if a relevant planning authority which receives an application for approval of any amendments to approved details under sub-paragraph (1) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, such longer period as may be agreed in writing by the undertaker and the relevant authority, it is deemed to have granted consent.

### **Anticipatory steps towards compliance with any requirement**

**23.** If, before the coming into force of this Order, the undertaker or any other person has taken any 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.

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## PART 2

### Applications made under requirements

**24.—**(1) Where an application has been made to a discharging authority for any consent, agreement or approval under a requirement, the discharging authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with—

- (a) where no further information is requested under requirement 25, the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under requirement 25, the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period unless otherwise agreed in writing.

#### **Multiple discharging authorities**

**25.** Where an application is required to be made to more than one discharging authority for any single consent, agreement or approval under a requirement, the undertaker may submit a request for comments in respect of its proposed application to each discharging authority and, where it does so, each discharging authority must provide its comments in writing on the proposed application within a period of 20 days beginning with the day immediately following that on which the request is received by the authority, or such longer period as may be agreed in writing by the undertaker and the relevant authority or authorities, so as to enable the undertaker to prepare a consolidated application to each discharging authority in respect of the consent, agreement or approval required by the requirement.

#### **Further information**

**26.—**(1) Where an application has been made under requirement 22 the discharging authority may, subject to complying with the requirements of this paragraph, request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is necessary and the requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the discharging authority does not give the notification mentioned in sub-paragraphs (2) or (3) or such longer period as may be agreed in writing by the undertaker and the relevant authority, or otherwise fails to request any further information within the timescales provided for in this paragraph, it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

## **Fees**

**27.**—(1) Where an application or a request for comments is made to a relevant planning authority for any consent, agreement or approval required by a requirement, a fee must be paid to the relevant planning authority as follows—

- (a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or
  - (b) a fee of £117 per application or request.
- (2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—
- (a) the application or request being rejected as invalidly made; or
  - (b) the relevant planning authority failing to determine the application or to provide written comments within 56 days from the date on which the application is received, or such longer period as may be agreed in writing under requirement 23, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application or a future request for comments.

## **Appeals**

**28.**—(1) The undertaker may appeal if—

- (a) the discharging authority refuses an application for—
    - (i) any consent, agreement or approval required by a requirement or any document referred to in any requirement; or
    - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
  - (b) having received a request for further information under requirement 25 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
  - (c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (2) The procedure for appeals is as follows—
- (a) the undertaker must submit to the Secretary of State, a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
  - (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
  - (c) within 28 days of receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
  - (d) the discharging authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

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- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

### **Outcome of appeals**

**29.**—(1) On an appeal under requirement 28, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person under requirement 28. Been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(3) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person's decision.

(4) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Part 1 of Schedule 2 (Requirements) as if it had been given by the discharging authority.

(5) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

### **Interpretation**

**30.** In this part;

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“the appeal parties” means the discharging authority, the requirement consultee and the undertaker.

“discharging authority” means the body responsible for giving a consent, agreement or approval

under this schedule; and

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