

2014 No. 1796

INFRASTRUCTURE PLANNING

**The Daventry International Rail Freight Interchange Alteration
Order 2014**

Made - - - - - *3rd July 2014*

Coming into force - - - - - *24th July 2014*

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An application has been made to the Secretary of State, in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a), for an order under sections 37, 114, 115, 117(4), 120 and 122 of the Planning Act 2008(b).

The application was examined in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c), by a single appointed person appointed by the Secretary of State in accordance with Chapter 3 of Part 6 of the 2008 Act.

The single appointed person, having considered the representations made and not withdrawn and the application together with accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 122 of, and paragraphs 1 to 3, 10 to 18, 33, 34, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Daventry International Rail Freight Interchange Alteration Order 2014 and will come into force on 24th July 2014.

Interpretation

2.—(1) In this Order—

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

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

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

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

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

“the 2008 Act” means the Planning Act 2008;

“access and rights of way plan” means the plan certified as the access and rights of way plan by the Secretary of State for the purposes of this Order;

(a) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.

(b) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33.

(e) 1965 c. 56.

(f) 1980 c. 66.

(g) 1990 c. 8.

(h) 1991 c. 22.

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

“apparatus” for the purposes of articles 11 (street works) and 23 (apparatus and rights of statutory undertakers in stopped up streets) has the same meaning as in Part 3 of the 1991 Act;

“associated companies” has the same meaning as in section 256 (associated bodies corporate) of the Companies Act 2006(a);

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

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

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

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

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

“cycle track” has the same meaning as in the 1980 Act(b);

“the design and access statement” means the document certified by the Secretary of State as the design and access statement for the purposes of this Order;

“development consent obligation” means the development consent obligation entered into under section 106 (planning obligations) of the 1990 Act(c) dated 16th December 2013 in respect of the authorised development and any subsequent amendment to the obligation;

“DIRFT I Estate” means the land shaded blue on the Location Plan (Document 2.1) certified by the Secretary of State as the location plan for the purposes of this Order;

“electronic transmission” means a communication transmitted—

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

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

“the environmental statement” means the document certified by the Secretary of State as the environmental statement for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“the framework plans” means the Main Site and Rail Corridor Plans (Documents 2.7A to C) the Schedule of Parameters (Document 2.7D), the Rail Framework Plans (Documents 2.10A and 2.10B) and the Highway Works Framework Plans (Documents 2.13A, B, D to F) certified as the framework plans by the Secretary of State for the purposes of this Order;

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

“the land plans” means the Main Site and Rail Land Plans (Documents 2.2A to C) and the Highway Mitigation Land and Works Plans (Documents 2.4A, B, D to J) certified as the land plans by the Secretary of State for the purposes of this Order;

“maintain” includes inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace or improve and any derivative of “maintain” is to be construed accordingly;

“main site” means that part of the land within the Order limits lying to the east of the A5 and north of the DIRFT I Estate;

“Order land” means the land shown on the land plans which is within the Order limits in respect of which rights are to be acquired and described in the book of reference;

(a) 2006 c. 46.

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

(c) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991 (c. 34) and subsequently amended by section 33 of the Greater London Authority Act 2007 (c. 24), section 174 of the Planning Act 2008 (c. 29) and paragraphs 1 and 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).

“the Order limits” means the limits shown on the works plans represented by a red line within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981(a);

“public footpath scheme” means a scheme agreed between the highway authority and the undertaker containing the specification for the public footpaths or bridleways which are to be permanently or temporarily provided within the main site;

“railway” has the same meaning as in the 2008 Act;

“rail alignment plans” means the illustrative rail alignment plans (Documents 2.9 C to E) certified as the rail alignment plans by the Secretary of State for the purposes of this Order;

“rail served warehousing” means warehousing to which goods can be delivered by rail either directly or by means of another form of transport;

“relevant highway authority” means, in any provision of this Order, the highway authority for any area of land to which that provision relates;

“relevant planning authority” means the district planning authority for the area in which land to which the provisions of this Order apply is situated and in respect of the requirements means the district planning authority in whose administrative district the part of the authorised development to which the requirement relates is located;

“relevant street authority” means, in any provision of this Order, the street authority for any area of land to which that provision relates;

“relocation works” means work executed, or apparatus provided, under paragraph (2) of article 23 (apparatus and rights of statutory undertakers in stopped up streets);

“requirements” means the requirements set out in Schedule 2 (requirements), and references to numbered requirements are references to the corresponding paragraph number in Schedule 2;

“statutory undertaker” means a statutory undertaker for the purposes of section 127(8) of the 2008 Act;

“statutory utility” means a statutory undertaker for the purposes of the 1990 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(b);

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

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

“Transport Review Group” means the body to be established under paragraph 5 of Part 2 of Schedule 1 to the development consent obligation;

“undertaker” means—

(a) Rugby Radio Station Limited Partnership (company number LP009085, registered at 1 Poultry, London, EC2R 8EJ) and Prologis UK Limited (company number 02872273, registered at 1 Monkspath Hall Road, Solihull, West Midlands, B90 4FY) and their associated companies; and

(b) subject to article 7 (benefit of order), any other person who has the benefit of this Order in accordance with section 156 of the 2008 Act for such time as that section applies to that person;

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

“the works plans” means the Main Site and Rail Works Plans (Document 2.3A to C) and the Highway Mitigation Land and Works Plans (Documents 2.4A, B, D to J) certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

(a) 1981 c. 67.

(b) 2003 c. 21.

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

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

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

PART 2

Principal powers

Development consent granted by the Order

3. The undertaker is granted development consent for the authorised development to be carried out subject to the provisions of the Order within the Order limits and subject to the requirements.

Parameters of authorised development

4. The authorised development is to be carried out within the parameters shown and described on the framework plans and in carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) in respect of the rail works deviate vertically from the levels shown on the rail alignment plans to the extent of the limits of vertical deviation shown on those plans.

Authorisation of use

5.—(1) Subject to the provisions of this Order, including the requirements, the undertaker and any persons authorised by them may operate and use the authorised development and the existing rail infrastructure within the Order land for the purposes of a rail freight terminal and warehousing and any purposes ancillary to those purposes.

(2) It does not constitute a breach of the terms of this Order if, following the coming into force of this Order, any development, or any part of a development, is carried out or used within the Order limits under planning permission granted, on application, under the 1990 Act.

Maintenance of authorised development

6. Subject to the requirements the undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

Benefit of Order

7. Rugby Radio Station Limited Partnership and Prologis UK Limited, and their associated companies, have the sole benefit of articles 19 to 23 (powers of acquisition) and are solely liable under article 28 (certification of plans etc.) and requirement 6(1) (detailed design approval) in Schedule 2 (requirements).

Application and modification of legislative provisions

8.—(1) Where an application is made to the relevant planning authority for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a relevant planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of planning permission—

- (a) sections 78 (right of appeal in relation to planning decisions) and 79 (determination of appeals) of the 1990 Act^(a);
- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a relevant planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a relevant planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

Defence to proceedings in respect of statutory nuisance

9. The defence of statutory authority provided by section 158(1) and (2) of the 2008 Act does not apply to civil or criminal proceedings for nuisance brought in respect of the carrying out of the authorised development or anything else authorised by the granting of this Order.

PART 3

Streets

Power to alter layout, etc., of streets

10.—(1) Subject to paragraph (2), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of such kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street;
- (d) make and maintain crossovers, sidings and passing places.

(2) The undertaker must restore to the reasonable satisfaction of the relevant street authority any street that has been temporarily altered under this article.

(3) The powers conferred by paragraph (1) are not to be exercised without the consent of the relevant street authority; but such consent must not be unreasonably withheld.

Street works

11.—(1) The undertaker may with the prior agreement of the relevant street authority (such agreement not to be unreasonably withheld), for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;

(a) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34); section 43(2) of the Planning and Compulsory Purchase Act 2004 (c. 5); paragraphs 1 and 3 of Schedule 10, and paragraphs 1 and 2 of Schedule 11, to the Planning Act 2008 (c. 29); section 123(1) and (3) of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011 (c. 20); and paragraphs 1 and 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27). Section 79 is amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34); and paragraphs 1 and 4 of Schedule 10 to the Planning Act 2008 (c. 29).

- (d) maintain apparatus in the street or change its position;
- (e) construct and maintain the bridges and tunnels referred to in Works Nos 1, 2 and 3; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c), (d) and (e) .

(2) The prior agreement of the relevant street authority required under sub-paragraph (1) is not required where the street works are carried out under an agreement entered into under section 278 of the 1980 Act^(a).

Stopping up of streets

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (streets to be permanently stopped up) to the extent specified, by reference to the letters shown on the access and rights of way plan, in column (3) of those Parts of that Schedule.

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

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

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

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

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned.

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

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

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

(7) This article is subject to article 23 (apparatus etc. of statutory undertakers).

Public rights of way – diversion and stopping up

13.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—

- (a) stop up each of the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 5 (public rights of way to be permanently stopped up) to the extent specified, by

(a) Section 278 was substituted by section 23 of the 1991 Act (c. 22).

reference to the letters and numbers shown on the access and rights of way plan, in column (3) of that Part of that Schedule; and

- (b) temporarily stop up each of the public rights of way specified in columns (1) and (2) of Part 2 of Schedule 5 (public rights of way to be temporarily stopped up) to the extent as may be from time to time agreed with the relevant highway authority.

(2) No public right of way specified in columns (1) and (2) of Part 1 of Schedule 5 may be wholly or partly stopped up under this article unless the permanent diversion routes specified in column (4) of that Part of that Schedule, or such temporary diversion routes as may from time to time be agreed by the relevant highway authority, have first been provided by the undertaker to the reasonable satisfaction of the relevant highway authority.

(3) The permanent diversion routes referred to in paragraph (2), or any temporary diversion route as may from time to time be agreed by the relevant highway authority, must be maintained by the undertaker with appropriate clear signage of the permanently or temporarily diverted route to the reasonable satisfaction of the relevant highway authority.

(4) Any temporary diversion route must be maintained by the undertaker until the completion and opening of the public rights of way within the Order limits specified in column (4) of Part 1 of Schedule 5.

Temporary stopping up of streets

14.—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily stop up, alter or divert any street and may for any reasonable time—

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

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

(3) The undertaker must not temporarily stop up, alter or divert any street without the consent of the relevant street authority which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld.

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

Access

15. The undertaker may, for the purposes of the authorised development and with the agreement of the relevant highway authority (such agreement not to be unreasonably withheld), form and lay out such means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires.

Agreements with highway authorities

16.—(1) A relevant highway authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street, including any structure carrying the street over or under a railway authorised by this Order;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;
- (d) any stopping up, alteration or diversion of a street as part of or to facilitate the authorised development; or
- (e) the carrying out in the street of any of the works referred to in article 11 (street works),

prior to the carrying out of the works to which the agreements relate.

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the relevant highway authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the relevant highway authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

(3) This article does not apply to streets within the main site which are intended to be private streets.

PART 4

Supplemental powers

Discharge of water

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

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

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

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

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

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

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

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

(8) In this article—

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

(a) 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37). There are other amendments to section 106 which are not relevant to this Order.

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

(c) 1991 c. 57.

Authority to survey and investigate the land

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

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

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner, who is not the undertaker, and occupier of the land.

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

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

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

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

but such consent must not be unreasonably withheld.

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

PART 5

Powers of acquisition

Compulsory acquisition of rights

19.—(1) The undertaker may acquire compulsorily the existing rights described in the book of reference and shown on the land plans.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the carrying out and use of the authorised development—

- (a) as from the date of the acquisition of the right by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act^(a) in pursuance of the right,

whichever is the earlier.

(3) Where the undertaker acquires an existing right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(a) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1).

Time limit for exercise of authority to acquire rights compulsorily

- 20.** After the end of the period of 5 years beginning on the day on which the Order is made—
- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
 - (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981^(a) as applied by article 21 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

21.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order were a compulsory purchase order.

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

(3) In section 3 (preliminary notices) for subsection (1) there is substituted—

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

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

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

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

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

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

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

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to be construed as references to that Act as applied by section 125 (application of compulsory acquisition provision) of the 2008 Act to the compulsory acquisition of rights under this Order.

Rights under or over streets

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

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

(a) 1981 c. 66.

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

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

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

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

Apparatus and rights of statutory undertakers in stopped up streets

23.—(1) Where a street is stopped up under article 12 (stopping up of streets) any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 12 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

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

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

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

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

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

and the placing of that new apparatus involves additional costs which would not have been incurred if the apparatus had been of the same type, capacity or laid at the same depth as the existing apparatus, then the amount payable to the statutory utility is to be reduced by a sum equivalent to those additional costs.

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

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

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4))

must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

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

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

PART 6

Miscellaneous and general

Operation and use of railways

24.—(1) The undertaker may operate and use the railway and any other elements of the authorised development as a system, or part of a system, of transport for the carriage of goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993(a).

Charges

25. The undertaker may demand, take and recover or waive such charges for carrying goods on the railway comprised in the authorised development, or for any other services or facilities provided in connection with the operation of that railway, as it thinks fit.

Felling or lopping of trees

26.—(1) Subject to paragraph (4) the undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The provisions of this article do not apply without the agreement of the relevant planning authority to any tree identified to be retained in the landscaping scheme approved under requirement 8 (provision of landscaping).

(5) The provisions of this article do not apply without the agreement of the relevant highway authority to any tree within a highway.

(a) 1993 c. 43.

Protection of interests

27. Schedule 6 (protective provisions) has effect.

Certification of plans etc.

28.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access and rights of way plan;
- (b) the book of reference;
- (c) the design and access statement;
- (d) the environmental statement;
- (e) the framework plans;
- (f) the land plans;
- (g) the location plan;
- (h) the rail alignment plans; and
- (i) the works plans,

for certification that they are true copies of the documents referred to in this Order.

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

Service of notices

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

- (a) by post
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient, and subject to paragraphs (6) to (8), by electronic transmission.

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

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

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

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

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

(a) 1978 c. 30.

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

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

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

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

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

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

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

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

Arbitration

30. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the Lands Chamber of the Upper Tribunal.

Signed by authority of the Secretary of State for Transport

3rd July 2014

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

SCHEDULES

SCHEDULE 1

Article 2(1)

AUTHORISED DEVELOPMENT

PART 1

ALTERATION OF THE EXISTING DAVENTRY INTERNATIONAL RAIL FREIGHT INTERCHANGE

The alteration of the existing Daventry International Rail Freight Interchange to provide—

In the County of Northamptonshire and the District of Daventry; and in the County of Warwickshire and the Borough of Rugby

Works No. 1

Within the area of land described on the works plans as Works No. 1—

Reconfiguration of the existing rail track at the Daventry International Rail Freight Interchange and new rail track provision from the connection with the Northampton Loop Line to connect with Works No. 2 south of the A428 highway as shown indicatively on the Rail Framework Plan Document 2.10B and rail alignment plans 2.9C and 2.9D (Sheet 2A) and including—

- (a) removal of sidings and provision of new reception sidings and rail track modifications along with additional points and crossings and associated rail infrastructure;
- (b) provision of a second rail track including enlarged rail tunnel beneath the A5 highway (Bridge A1) (Document 2.10C);
- (c) creation of private vehicle access for Network Rail in the general location shown on Document 2.9F;
- (d) creation of private parking area for Network Rail in the general location shown on Document 2.9F;
- (e) removal of Network Rail’s existing vehicle access to the main line;
- (f) all necessary earthworks; and
- (g) acoustic barrier, retaining wall and cutting slope.

For the purposes of Works No. 1 “Network Rail” means Network Rail Infrastructure Limited, company number 02904587, registered at Kings Place, 90 York Way, London N1 9AG.

Works No. 2

Within the area of land described on the works plans as Works No. 2—

New rail tracks to connect the existing and new rail tracks described in Works No. 1 with the new tracks to be provided by Works No. 3, from south of the A428 highway to the immediate west of the A5 highway as shown indicatively on the Rail Framework Plan Document 2.10A and rail alignment plan 2.9D (Sheet 2B) and including—

- (a) provision of a new rail track and associated rail infrastructure on embankment including bund to screen adjacent development to the west broadly as shown on Document 2.10J;
- (b) provision of a rail overbridge to cross the A428 (and all necessary substructure including footpaths, abutments and wingwalls) comprising a single bridge with double track (Bridge B2) as shown on Document 2.10F;

- (c) provision of access bridge for maintenance over realigned Clifton Brook the general arrangement of which is shown on Document 2.11D;
- (d) superstructure and substructure (including foundations, abutments and wingwalls) for rail bridge over the A5 highway as shown on Document 2.10G (Bridge D);
- (e) provision of a second rail track (in addition to (a) above) and associated rail infrastructure;
- (f) landscaping along western edge of Works No. 2; and
- (g) provision of flood plain compensation; construction of watercourse bridging structure over realigned Clifton Brook to carry rail embankment; landscaping incorporating habitat enhancement and realignment of Clifton Brook all as shown on Document 2.11L.

Works No. 3

Within the area of land described on the works plans as Works No. 3—

A new rail freight terminal and rail tracks to connect with the new rail tracks described in Works No. 2 from the immediate west of the A5 highway as shown indicatively on Document 2.9E and including—

- (a) rail overbridge to cross the A5 highway and substructure including foundations, abutments and wingwalls as shown on Document 2.10G (Bridge D);
- (b) rail tracks and associated rail infrastructure;
- (c) a rail freight terminal to be built in phases including, but not exclusively—
 - (i) rail sidings to load and unload freight;
 - (ii) freight storage area; and
 - (iii) rail mounted gantry cranes and associated crane rails and related electricity substation and other lifting equipment;
- (d) cripple siding, rail freight terminal fuelling and maintenance areas;
- (e) intermodal terminal entry and exit gateway including loading lanes, container inspection facility, gatehouses and parking areas;
- (f) HGV stacking area;
- (g) internal roads;
- (h) staff amenity building;
- (i) bridleway bridges over railway as shown on Documents 2.11E, 2.11F, 2.11G, 2.11H and 2.11I and provision of rail bridge over internal estate road as shown on Document 2.10H (Bridge E);
- (j) viewing area for the public; and
- (k) maintenance, customs and administration buildings.

Works No. 4

Within the area of land described on the works plans as Works No. 4—

Rail served warehousing and buildings, including—

- (a) warehouses and ancillary offices in accordance with the parameters specified for each zone identified as Zones A to G on the framework plans (Documents 2.7B and 2.7D) including service yards and vehicle parking and in respect of the warehousing incorporating resource recovery units, combined heat and power and roof mounted photo voltaics;
- (b) rail freight terminal building and vehicle parking for rail freight terminal operations, staff and visitor welfare, office accommodation, estate management services, security, customs and education and training facility;
- (c) ancillary buildings, maintenance buildings and workshops;

- (d) vehicle maintenance units;
- (e) earthworks and earth retaining structures;
- (f) container storage;
- (g) rail tracks and associated rail infrastructure;
- (h) incidental landscaping, drainage infrastructure and mains services; and
- (i) primary electricity substation.

Works No. 5

Within the area of land described on the works plans as Works No. 5—

Site accesses and principal on-site private roads including—

- (a) realignment of Danes Way and removal of existing roundabout on Danes Way and provision of new roundabout access to provide the southern access (including the re-modelling of the access to Plot E1 of the DIRFT I Estate) as shown on the access and rights of way plan, the general arrangement of which is shown on Document 2.14A;
- (b) provision of a new roundabout on the A5 to provide the northern access as shown on the access and rights of way plan, the general arrangement of which is shown on Document 2.14B;
- (c) provision of estate roads (including roads crossing any bridleway or footpath), footways, cycle tracks and verges;
- (d) removal of the redundant low crest weir adjacent to and upstream of the A5 culvert on the Clifton Brook at Long Dole and replacement flood alleviation as shown on Documents 2.11J and 2.11K or as varied with the agreement in writing of the Environment Agency;
- (e) minor amendments to A5/Danes Way Roundabout; and
- (f) incidental landscaping, drainage infrastructure and main services relating to provision of (a) to (e) above.

Works No. 6

Within the area of land described on the works plans as Works No. 6—

Retention of existing rail hub building; removal of four transshipment sidings; provision of a rail locomotive refuelling tank; new warehousing and parking within Zone H as shown on the framework plan Document 2.7A.

PART 2

ASSOCIATED DEVELOPMENT

Associated development within the meaning of section 115(2) (development for which consent may be granted) of the 2008 Act and comprising—

In the County of Northamptonshire and the District of Daventry; and in the County of Warwickshire and the Borough of Rugby

Works No. 7

Within the area of land described on the works plans as Works No. 7—

A lorry park as shown on the framework plan Document 2.7B and including—

- (a) lorry parking;
- (b) driver welfare facility including toilets and showers;

- (c) noise barrier and landscaping; and
- (d) vehicle parking.

Works No. 8

Within the area of land described on the works plans as Works No. 8—

Strategic open space (to be known as Lilbourne Meadows) as shown on the framework plan Document 2.7C and including—

- (a) curlew habitat creation;
- (b) areas of relevant ridge and furrow;
- (c) area of retained semi improved grassland;
- (d) creation of water bodies, wetland habitat and marginal reedbed planting;
- (e) great crested newt habitat creation;
- (f) provision of bat house incorporating maintenance equipment store;
- (g) flood control structure, attenuation storage bund, culverting and surface water outflow;
- (h) landscaping including landscaped ridge to screen development zones as shown indicatively on Document 2.12;
- (i) realignment of the Clifton Brook Tributary;
- (j) provision of permissive footpaths as shown indicatively on the access and rights of way plan (Document 2.5);
- (k) physical works for the provision of new and diverted public footpaths and bridleway as shown on the access and rights of way plan (Document 2.5);
- (l) provision of bridges crossing the Clifton Brook Tributary, the general arrangements of which are shown on Documents 2.11A, 2.11B and 2.11C;
- (m) provision of bird hides; and
- (n) boundary treatments and additional planting.

Works No. 9

Within the area of land described on the works plans as Works No. 9—

- (a) strategic landscaping, including retention of existing landscaping and provision of new landscaping;
- (b) surface water drainage system including attenuation;
- (c) works required for the protection of the M1 motorway boundary slopes and provision of gates on the bridleway FP3 in position A shown on the access and rights of way plan (Document 2.5); and
- (d) internal estate road and, if required, bridleway bridge over internal estate road.

Works No. 10

Within the Order limits identified on Documents 2.4A, B, D to J—

Highways works comprising—

- (a) A5/A426 Gibbet Roundabout – widening and signalisation of A5 (north) approach, A426 (north-east) approach and A5 (south) approach, with additional widening to A426 (south-west) approach and exit, widening of circulating carriageway and associated traffic management measures, the general arrangement of which is shown on Document 2.13A;
- (b) M1 Junction 18 – signalisation of the A428 (west) and M1 (north) off-slip approaches, the general arrangement of which is shown on Document 2.13B;
- (c) A5 Lilbourne crossroads – improved signage, carriageway markings, anti-skid surfacing, and associated traffic management measures, the general arrangement of which is shown on Document 2.13D;

- (d) A5 Catthorpe Crossroads – improved signage, carriageway markings, anti-skid surfacing, and associated traffic management measures, the general arrangement of which is shown on Document 2.13E;
- (e) A5/A428 (Parklands) Roundabout – amendments to signing and carriageway markings on A428 (west) approach, the general arrangement of which is shown on Document 2.13F;
- (f) traffic management Clifton-upon-Dunsmore – traffic calming measures as shown illustratively on Document 2.13G;
- (g) traffic management Kilsby – traffic calming measures as shown illustratively on Document 2.13H;
- (h) pedestrian and cycle link from Daventry International Rail Freight Terminal (“DIRFT”) to Crick – scheme to improve cycle and pedestrian connectivity between Crick and the authorised development as shown illustratively on Document 2.13I; and
- (i) improvements to a pedestrian and cycle link from DIRFT to Hillmorton – scheme to improve cycle and pedestrian connectivity between the authorised development and Hillmorton as shown illustratively on Document 2.13J or such alternative pedestrian and cycle link as may be agreed in writing by the Transport Review Group.

Further site-wide development

In connection with Works Nos. 1 to 10 further site-wide development within the Order limits including the provision of—

- (a) weighbridges;
- (b) internal estate roads, maintenance accesses, footways and access to Crick Covert (between points 1 and 2 as shown on the access and rights of way plan);
- (c) cycle parking facilities;
- (d) bunds, embankments, swales, landscaping and boundary treatments, earthworks and earthwork retaining structures;
- (e) the provision of footways, cycle tracks, bridleways and footpath linkages;
- (f) water supply works, foul drainage provision, foul pumping stations, surface water management systems, balancing ponds (surface and underground), attenuation and culverting;
- (g) connections to mains services and provision of utilities infrastructure including secondary substations and gas pressure reducing stations;
- (h) diversion of high pressure gas main, other pipelines and services;
- (i) demolition of existing buildings and structures within the Order limits and as identified on the framework plans;
- (j) security fencing;
- (k) temporary concrete batching plants;
- (l) temporary construction compounds and materials and aggregate store;
- (m) public art;
- (n) lighting;
- (o) gatehouses and CCTV; and
- (p) such other works as may be necessary or expedient for the purpose of or in connection with the construction or use of the authorised development and which are within the scope of the environmental impact assessment recorded in the environmental statement.

SCHEDULE 2 REQUIREMENTS

Article 2(1)

Interpretation

1. “access works” means Works Nos 5(a) and 5(b);

“the approved development plans” means the—

- (i) Main Site and Rail Corridor Framework Plans (Sheet 1) (Document 2.7A);
- (ii) Main Site and Rail Corridor Framework Plans (Sheet 1) (Document 2.7B);
- (iii) Main Site and Rail Corridor Framework Plans (Sheet 1) (Document 2.7C);
- (iv) Schedule of Parameters (Document 2.7D);
- (v) Rail Framework Plans (Sheet 1) (Document 2.10A);
- (vi) Rail Framework Plans (Sheet 2) (Document 2.10B);
- (vii) Highway Works Framework Plans (Gibbet Roundabout) (Document 2.13A);
- (viii) Highway Works Framework Plans (M1 J18) (Document 2.13B);
- (ix) Highway Works Framework Plans (Lilbourne Junction) (Document 2.13D);
- (x) Highway Works Framework Plans (Catthorpe Junction) (Document 2.13E); and
- (xi) Highway Works Framework Plans (A5/A428 Parklands) (Document 2.13F);

“authorised buildings” means any building erected as part of the authorised development;

“BREEAM” means Building Research Establishment Environmental Assessment Methodology;

“Highways Agency” means an Executive Agency of the Department for Transport responsible for operating, maintaining and improving the strategic road network in England on behalf of the Secretary of State for Transport;

“highway works” means Works Nos 10(a) to (e), (h) and (i);

“lead local flood authority” means Northamptonshire County Council;

“occupation” means occupation of the authorised buildings other than for the purpose of constructing, fitting out, commissioning or site security;

“phase” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the relevant planning authority under requirement 3 (phases of development);

“phase one rail works” means the following works all of which are within Works No. 3—

- (i) 4 western transshipment sidings;
- (ii) the engine release track;
- (iii) western loading lane;
- (iv) western container storage area;
- (v) sufficient of the rail terminal entry/exit gateway to serve the operation of the above;
and
- (vi) sufficient rail track and associated work to serve the above;

“relevant bodies” means in respect of each of the access works and the highway works the bodies referred to in respect of each of those works in column (4) of the tables in requirement 5 (design and phasing of access and highways works) ;

“RRS urban extension” means the urban extension on land to the west of the A5 opposite the main site which is the subject of a planning application to Rugby Borough Council (reference R11/0699); and

“weir removal project” means the removal of the A5 weir, replacement of the A5 and Danes Way culverts and regrading of the channel in accordance with the agreement reached with the Environment Agency and consented under section 109 (structures in, over or under a main river) of the Water Resources Act 1991(a) with consent numbers UT201100212, UT201100214 and UT201100215 or any varied consents issued by the Environment Agency or variation to the works agreed in writing with the Environment Agency.

Time Limit

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

Phases of development

3. No phase of the authorised development may commence until a written scheme setting out all the phases of the authorised development which must be in accordance with the phasing plan submitted with the application (Document 2.15) has been submitted to and approved by the relevant planning authority. The written scheme must include phasing details of—

- (a) earthworks;
- (b) ecological mitigation;
- (c) rail infrastructure;
- (d) roads within the main site;
- (e) surface water and foul drainage;
- (f) development plots;
- (g) landscaping; and
- (h) mains services.

The authorised development must be carried out in accordance with the phasing plan and the written scheme as approved from time to time in writing by the relevant planning authority.

Design and phasing of access and highways works

4. The details of each item of the access works and highway works must be submitted to and approved in writing by the relevant body under article 16 (agreements with highway authorities) prior to the commencement and construction of each of those works. The details may be subject to alteration by prior approval in writing of the relevant body.

5. The access works and the highway works must be carried out in accordance with details submitted to and approved by the relevant body under requirement 4 and the undertaker must use reasonable endeavours to complete such works by no later than the triggers set out in the table below or such alternative later triggers as are agreed by the relevant bodies.

(a) 1991 c. 57. Section 109 was amended by section 82 of the Marine and Coastal Access Act 2009 (c. 23) and S.I. 2013/755.

Access Works

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Item</i>	<i>Works</i>	<i>Trigger</i>	<i>Relevant Body</i>
1	Southern Access (General Arrangement Plan Document 2.14A) (Works No. 5(a)).	Prior to any occupation.	Daventry District Council.
2.	Northern Access (General Arrangement Plan Document 2.14B) (Works No. 5(b)).	Prior to the phase one rail works coming into use.	Highways Agency.

Highway Works

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Item</i>	<i>Highway Works</i>	<i>Trigger</i>	<i>Relevant Body</i>
3.	A5/A426 Gibbet Roundabout (Highway Works Framework Plan Document 2.13A) (Works No. 10(a)).	Prior to the occupation of more than 305,000 square metres of gross internal floorspace of the authorised buildings.	Highways Agency and Warwickshire County Council.
4.	M1 Junction 18 (Highway Works Framework Plan Document 2.13B) (Works No. 10(b)).	Prior to the occupation of more than 305,000 square metres of gross internal floorspace of the authorised buildings.	Highways Agency.
5.	A5 Lilbourne Crossroads (Highway Works Framework Plan Document 2.13D) (Works No. 10(c)).	Prior to any occupation.	Highway Agency.
6.	A5 Catthorpe Crossroads (Highway Works Framework Plan Document 2.13E) (Works No. 10(d)).	Prior to any occupation.	Highways Agency.
7.	A5/A428 Roundabout (Parklands) (General Arrangement Plan Document 2.13F) (Works No. 10 (e)).	Prior to any occupation	Highways Agency and Northamptonshire County Council.
8.	Pedestrian and Cycle Link to Crick (illustratively shown on Document 2.13I) (Works No. 10(f)).	Prior to any occupation.	Highways Agency and Northamptonshire County Council.
9.	Improvements to the pedestrian and cycle link to Hillmorton (illustratively shown on Document 2.13J) (Works No. 10(i)) or such alternative pedestrian and cycle link as may be agreed in writing by the Transport Review Group to reflect the development of the RRS urban extension.	Prior to the provision of Northern Access (item 2 above).	Warwickshire County Council.

Detailed design approval

6.—(1) The design guide contained in chapter 7 of the design and access statement must be reviewed and updated at 4 yearly intervals by the undertaker in agreement with the relevant planning authorities.

(2) The details of each phase of the authorised development must be in accordance with the approved development plans and the design guide contained in chapter 7 of the design and access statement as reviewed and updated in accordance with paragraph (1). The details of each phase must include details of the following where they are located within that phase—

- (a) rail infrastructure (including bridges and tunnels);
- (b) embankments;
- (c) vehicular circulation routes;
- (d) cycle tracks, footpaths and bridleways (including bridges);
- (e) surface and foul drainage;
- (f) vehicle parking;
- (g) built development design and layout;
- (h) roads within the main site;
- (i) intermodal area;
- (j) fuelling and maintenance areas;
- (k) public viewing area;
- (l) freight storage area (including containers);
- (m) weighbridges;
- (n) gatehouses;
- (o) security fencing;
- (p) substations;
- (q) public transport infrastructure; and
- (r) noise barriers.

7. No phase of the authorised development is to commence until the above relevant details of that phase have been submitted to and approved in writing by the relevant planning authority. The authorised development must be carried out in accordance with the details as approved from time to time in writing by the relevant planning authority.

Provision of Landscaping

8. No phase of the authorised development is to commence until a written landscaping scheme for that phase (including the strategic landscaping included within that phase) has been submitted to and approved in writing by the relevant planning authority. The landscaping scheme must be in accordance with the Green Infrastructure Plan contained in Appendix H5 of the environmental statement and must include details of all proposed soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importation of materials and other operations to ensure plant establishment;
- (c) details of existing trees to be retained, with measures for their protection during the construction period;
- (d) retained historic landscape;
- (e) implementation timetables; and
- (f) arrangements for future maintenance.

The landscaping scheme may be subject to alteration by prior approval in writing of the relevant planning authority.

Implementation and maintenance of landscaping

9.—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under requirement 8 (provision of landscaping) and, unless otherwise agreed in writing by the relevant planning authority, to a reasonable standard in accordance with the relevant recommendations of British Standard 4428: 1989 (code of practice for general landscape operations (excluding hard surfaces)).

(2) The landscaping works must be implemented in accordance with the implementation timetables and maintained in accordance with the arrangements approved under requirement 8.

(3) Any tree or shrub planted as part of an approved landscape scheme that, within a period of 10 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 relevant planning authority gives consent to any variation.

Ecological Management Plan

10.—(1) No phase of the authorised development is to commence until a written ecological management plan reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement has been submitted to and approved in writing by the relevant planning authority. The management plan may be subject to alteration by prior approval in writing of the relevant planning authority.

(2) The ecological management plan must include an implementation timetable and must be carried out as approved from time to time in writing by the relevant planning authority.

M1 boundary slopes

11.—(1) Prior to the commencement of Works No. 9(c), the details of the boundary slopes within the Order land abutting the M1 motorway (addressing landscaping and ground stability issues) must be submitted to and approved in writing by the relevant planning authority. The development must be carried out in accordance with the details approved from time to time in writing by the relevant planning authority.

(2) The details of the boundary slopes to be approved by the relevant planning authority under this requirement must reflect the preliminary assessment and methodology for geotechnical assessment set out in the Statement of Intent (Document 10.4) unless otherwise agreed in writing by the Highways Agency.

(3) Before approving any details under this requirement the relevant planning authority must first consult the Highways Agency.

Fencing and other means of enclosure

12. No phase of the authorised development is to commence until written details of all proposed permanent fences, walls or other means of enclosure for that phase have been submitted to and approved in writing by the relevant planning authority. The development must be carried out in accordance with the details as approved from time to time in writing by the relevant planning authority.

Construction Environmental Management Plan

13. No phase of the authorised development is to commence, including any preparatory earthworks or site levelling but excluding archaeological soil movement and ecological mitigation works, until a Construction Environmental Management Plan (“CEMP”) for that phase of development, drafted in accordance with the principles set out in the environmental statement, has been submitted to and approved in writing by the relevant planning authority. The CEMP must include—

- (a) details of the methods to control noise and vibration arising from construction activities. These measures must include—
 - (i) proposals for monitoring of construction noise;
 - (ii) proposals for monitoring vibration; and
 - (iii) proposals for the introduction of mitigation measures or alternative working practices where the measurements exceed acceptable limits;
- (b) details of the methods to be used to control dust and other emissions from the site;
- (c) details of all temporary fencing, temporary buildings, compound areas and parking areas including arrangements for their removal following completion of construction;
- (d) details of areas to be used for the storage of plant and construction materials and waste;
- (e) details of the facilities to be provided for the storage of fuel, oil and other chemicals, including measures to prevent pollution;
- (f) details of temporary lighting arrangements;
- (g) measures to ensure that construction vehicles do not deposit mud on the public highway;
- (h) a scheme for the routing of construction heavy goods vehicles accessing the site;
- (i) details of mitigation measures to protect biodiversity interests within the site during the construction phases; and
- (j) advisory signage at public access points advising of possible hazards including the potential for sudden noise.

The CEMP may be subject to alteration by approval in writing of the relevant planning authority. All construction works must be carried out in accordance with the CEMP as approved from time to time in writing by the relevant planning authority.

Earthworks

14. No phase of the authorised development, excluding archaeological soil movement and ecological mitigation works, is to commence until details of the earthworks strategy relating to that phase of development including the extent of any material to be temporarily stored within the site and details of any surplus material to be removed from the site for disposal have been agreed in writing with the relevant planning authority. All earthworks must be carried out in accordance with the agreed earthworks strategy.

Archaeology

15.—(1) No phase of the authorised development is to commence until a programme of archaeological work in accordance with a written scheme of investigation in respect of that phase has been approved in writing by the relevant planning authority. This written scheme must provide for the investigation of areas of archaeological interest identified by the evaluation surveys which established the base line conditions in the environmental statement (Document 6.2) and include the following components, completion of each of which will trigger the phased discharging of the requirement—

- (a) approval of a written scheme of investigation;
- (b) fieldwork in accordance with the agreed written scheme of investigation;
- (c) completion of a Post-Excavation Assessment report and approval of an Updated Project Design; to be submitted within 6 months of the completion of fieldwork, unless otherwise agreed in advance in writing by the relevant planning authority; and
- (d) completion of analysis, preparation of site archive ready for deposition at a store approved by the relevant planning authority, production of an archive report, and submission of a publication report; to be completed within 2 years of the completion of fieldwork, unless otherwise agreed in advance in writing by the relevant planning authority.

(2) The programme of archaeological work may be subject to alteration by approval in writing by the relevant planning authority.

Lighting Details

16.—(1) Prior to the commencement of each phase of the authorised development, details of the proposed external lighting in that phase must be submitted to and approved in writing by the relevant planning authority.

(2) The approved lighting scheme must be implemented and maintained as approved from time to time during operation of the authorised development and no external lighting other than that approved under this requirement is to be installed.

(3) The details submitted under this requirement must include details of any lighting on any gantry cranes.

(4) Any means of illumination must be shielded or designed so that the source of illumination is not directly visible from the adjoining highways and railway.

Building Sustainability

17.—(1) No development of a warehouse unit is to take place until a BREEAM Pre-Assessment Report based upon the BREEAM 2011 method (or equivalent) has been submitted to and approved in writing by the relevant planning authority demonstrating that that unit is expected to achieve at least a BREEAM 2011 “Very Good” rating (BREEAM Industrial 2008 “Excellent”).

(2) The authorised development must be carried out in accordance with the details in the BREEAM Pre-Assessment Report (or equivalent) and a certificate must be provided within 3 months of completion or occupation (whichever is the sooner) of each warehouse confirming that the measures in respect of that warehouse committed to within the Pre-Assessment Report have been implemented.

Lorry Park

18.—(1) Prior to commencement of construction of the lorry park a management plan for its operation (which is to be for the benefit only of occupiers of the authorised development unless otherwise agreed by the undertaker) must be submitted to and approved by the relevant planning authority. The management plan must include details (approved under requirements 3 (phases of development), 6 and 7 (detailed design approval)) of the phases of its construction; the layout and landscaping of the parking areas; any noise mitigation measures; and details of a register to be kept to record all vehicles using the lorry park. The lorry park must subsequently be retained for the duration of the use of the authorised development and must be laid out and operated in accordance with the approved management plan as approved from time to time.

(2) The management plan may be subject to alteration by prior approval in writing by the relevant planning authority.

Flood Risk and Surface Water Drainage

19. No part of the authorised development which encroaches upon the existing floodplain of the Clifton Brook Tributary, except the flood management works required to facilitate or mitigate the weir removal project (item (d) of Works No. 5), is to be brought into use until the completion of the weir removal project.

20. The proposed Clifton Brook Tributary Flood Storage Scheme is to be constructed as part of the authorised development in advance of the removal of the A5 weir element of the weir removal project unless another mitigation option approved by the Environment Agency has already been implemented. The proposed Flood Storage Scheme must comprise the construction of a flood storage bund and flow control structure across the full width of the floodplain at Lilbourne Meadows. The bund must be set to a level of 95.5m AOD and tie into the lorry park, which must be set at a minimum level of 95.5m AOD. The details of the proposed Flood Storage Scheme must

accord with the agreement reached with the Environment Agency and consented under section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(a) with consent number UT201100216 or any varied consents issued or variation to the works agreed in writing by the Environment Agency or the lead local flood authority.

21. The authorised development must be carried out in accordance with the mitigation measures detailed within Section 6 of the Flood Risk Assessment submitted with the application at appendix E2 of the environmental statement (Document 6.2) or be carried out in accordance with any variation to the those mitigation measures agreed in writing by the Environment Agency, the lead local flood authority or the approving body under Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010(b).

22. The rail embankment within the floodplain to the west of the A5 (Works No. 2(a)) must not be commenced until the detailed design of the Clifton Brook rail embankment crossing structure has been submitted to, and approved in writing by, the relevant planning authority. The elements of the authorised development which encroach or impact upon the Clifton Brook Tributary must not be commenced until such time as the detail of the relevant bridging structure and flow control structure have been submitted to and approved in writing by the relevant planning authority. The details must also include:

- (a) the Clifton Brook Tributary flow control structure, which must be constructed in accordance with the details shown within the Flood Defence Consent UT201100216 or other details agreed in writing by the relevant planning authority;
- (b) the 3 bridges (bridleway, footbridge and maintenance) over the Clifton Brook Tributary; except for the footbridge over the flow control structure these must be clear span bank top to bank top structures and must be constructed in accordance with the details shown in Documents 2.11A, 2.11B and 2.11C or other details agreed in writing by the relevant planning authority;
- (c) the Clifton Brook rail embankment crossing which must be a clear span structure (Armco arch or similar) with the soffit level above the channel set a minimum of 600 millimetres above the 1:100yr plus 20% (for climate change) flood level; and
- (d) the access bridge over the Clifton Brook which must be a clear span bank top to bank top structure in accordance with the details shown on Document 2.11D or other means of access to be agreed in writing by the relevant planning authority.

The structures must be implemented as approved or in accordance with any variation to the approved details agreed in writing by the Environment Agency or lead local flood authority, following consultation with the relevant planning authority. Items (a) and (b) must be fully operational, prior to the occupation of any element of the authorised development which encroaches or impacts upon the Clifton Brook Tributary.

23. No phase of the authorised development is to commence until a surface water drainage scheme for that phase based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development in accordance with the Surface Water Drainage Strategy submitted with the application at appendix E1 of the environmental statement (Document 6.2) has been submitted to and approved in writing by the relevant planning authority or in accordance with such other approval process that may be prescribed under the Flood and Water Management Act 2010. The scheme must include:

- (a) provision for limiting the surface water run-off generated by all rainfall events up to the 1:100 year plus 20% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;

(a) 1991 c. 59. Section 23 was amended by section 120 of, and paragraph 192 of Schedule 22 to, the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.

(b) 2010 c. 29. Schedule 3 was amended by S.I. 2012/1659 and S.I. 2013/755.

- (b) provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rates and all rainfall events up to the 1:100 year plus 20% (for climate change) critical rain storm;
- (c) detailed design (plans, cross sections and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and the outfall arrangements; and
- (d) details of how the scheme is to be maintained and managed after completion.

The scheme must subsequently be implemented in accordance with the approved details or in accordance with any variations to the details agreed in writing by the relevant planning authority prior to the completion of the authorised development.

24. Prior to the commencement of any element of the authorised development which directly affects a watercourse or floodplain, a construction working method statement for such element to cover all works in, over under or within 8 metres of the top of the bank of either watercourse or their floodplains must be submitted to and agreed in writing by the relevant planning authority. Thereafter the development must be carried out in accordance with the approved scheme and any subsequent amendments agreed in writing with the relevant planning authority.

25. Any element of the authorised development which directly affects any floodplain must not be commenced until a floodplain compensation scheme has been submitted to and approved in writing by the relevant planning authority. Except for the floodplain compensation scheme itself no above ground part of the authorised development in any floodplain may be commenced until the relevant compensation scheme has been implemented in full. The scheme shall be fully implemented and subsequently maintained in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed in writing by the relevant planning authority.

Foul Water Drainage

26. Prior to the commencement of the authorised development, excluding earthworks, archaeology works or ecological mitigation works, a foul water drainage strategy must be submitted to and approved in writing by the relevant planning authority. Except where it is constructed in accordance with the approved foul water drainage strategy, no phase of the authorised development is to commence until written details of the foul water drainage system have been submitted to and approved in writing by the relevant planning authority. Such details must be implemented as approved from time to time by the relevant planning authority.

Construction Hours

27.—(1) Subject to sub-paragraph (2) construction and demolition works (which for the purposes of this requirement exclude archaeological investigations, landscaping works and any non-intrusive internal fit-out works but include start up and shut down and deliveries) must not take place other than between 07:30 and 19:00 hours on weekdays and 08:00 and 13:00 hours on Saturdays, excluding public holidays, unless otherwise agreed in writing by the relevant planning authority. Outside the above periods the following working is permitted—

- (a) pre-planned construction works to highway or rail infrastructure requiring possessions where first notified to the relevant planning authority and local residents;
- (b) emergency works; and
- (c) works which do not cause noise that is audible at the boundary of the Order limits.

(2) Regardless of sub-paragraph (1) no piling operations are to take place after 18:00 hours unless otherwise agreed by the relevant planning authority.

(3) Any emergency works carried out under paragraph (1)(b) must be notified to the relevant planning authority within 72 hours of their commencement.

Construction Noise

28.—(1) For normal daytime construction and demolition works carried out on weekdays between 07:30 and 19:00 hours and on Saturdays between 08:00 and 13:00 hours, the noise level measured at a noise sensitive receptor must not exceed Leq, 12hour 75 dB(A) wherever practicable. Where this is not practicable prior consent under section 61 of the Control of Pollution Act 1974(a) must be obtained.

(2) Measurements of construction and demolition noise must be undertaken in accordance with BS 5228:2009 – “Code of Practice for Noise and vibration control on construction and open sites” (Part 1 – Noise) at a noise sensitive receptor. Noise levels must be measured weekly during the stages of construction including ground works, piling, road and rail construction stages unless complaints are received in which case the procedures in requirement 31 (monitoring of complaints) must be followed.

(3) Subject to health and safety requirements, broadband reversing alarms must be employed on mobile plant.

Construction Vibration

29. Unless otherwise agreed in writing by the relevant planning authority all construction works must comply with the guideline vibration limits below. Measurements must be undertaken at any occupied building within or outside of the Order limits within a distance of 25 metres from piling or any works likely to cause elevated levels of ground borne vibration to ensure compliance with the guideline limits. Measurements must be undertaken in accordance with BS 5228:2009 – “Code of Practice for Noise and vibration control on construction and open sites (Part 2 – Vibration)” and BS7385:1993 – “Evaluation and measurement for vibration in buildings (Part 2 – Guide to damage levels from ground-borne vibration)”.

<i>Type of Building</i>	<i>Peak Particle Velocity (mms^{-1}) – Day (07:00 to 23:00)</i>	<i>Peak Particle Velocity (mms^{-1}) – Night (23:00 to 07:00)</i>
Any permanently occupied residential building	1.0 – 1.5	0.5
Any occupied commercial or industrial building	2.0 – 2.5	1.0

Note: daytime and night-time hours are for reference only as construction activities including piling are controlled elsewhere.

Noise during the Operational Phase

30.—(1) No part of the authorised development may be brought into use until a written scheme has been submitted to and approved in writing by the relevant planning authority for the monitoring of noise generated during the operational phases of the development. The written scheme must specify the locations from where noise will be monitored, the method of noise measurement (which must be in accordance with BS4142: 1997 for fixed plant noise and Calculation of Railway Noise 1995, equivalent successor standards or other measurement methodologies appropriate to the circumstances agreed by the relevant planning authority) and identify maximum noise levels appropriate to each location. The written scheme must also specify the periods within which monitoring of operational noise are to take place. The written scheme must be implemented to establish baseline noise conditions. The written scheme is to be subject to annual reviews to establish the frequency of noise monitoring and the need for continued monitoring.

(a) 1974 c. 40.

(2) Prior to installation, details of all mechanical and ventilation plant must be submitted to and approved in writing by the relevant planning authority. Any fixed plant or ventilation equipment must be installed and operated in accordance with manufacturers' instructions at all times.

(3) Subject to health and safety requirements, broadband reversing alarms must be employed on mobile plant.

Monitoring of Complaints

31. In the event that complaints for noise nuisance are received by a relevant planning authority, which considers those complaints justified, the applicant must unless otherwise agreed in writing by the relevant planning authority, at its own expense, employ a consultant approved by the relevant planning authority to carry out an assessment of noise from the development, whether relating to noise from construction or operation of the site. The assessment must be carried out to an appropriate methodology agreed in writing by the relevant planning authority and the results of the assessment must be submitted to the relevant planning authority within 28 days of the assessment. Those results must include a comparison of measured data with the requirements, all data which was collected for the purposes of the assessment and certificates of the measuring instrument's calibration.

Contamination Risk

32. Prior to the commencement of the authorised development (or such other date or stage as may be agreed in writing by the relevant planning authority), the following components of a scheme to deal with the risks associated with contamination of the site must each be submitted to and approved in writing by the relevant planning authority—

- (a) a preliminary risk assessment;
- (b) a site investigation scheme based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- (c) a remediation strategy based on (a) and (b) giving full details of the remediation measures required and how they are to be undertaken; and
- (d) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for contingency action.

The scheme may be subject to alteration by prior approval in writing by the relevant planning authority and must be fully implemented in accordance with the details as approved from time to time.

33. A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation must be submitted to and approved in writing by the relevant planning authority. The report must include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It must also include any plan for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action as identified in the verification plan and for reporting to the relevant planning authority.

SCHEDULE 3

Article 11

STREETS SUBJECT TO STREET WORKS

<i>(1)</i>	<i>(2)</i>
<i>Area</i>	<i>Street subject to street works</i>
Daventry District	Danes Way – whole length within the Order limits.
Daventry District	A428 and A361 – length within the Order limits.
Rugby Borough	A428 and A426 – length within the Order limits.

SCHEDULE 4

Article 12

STREETS TO BE PERMANENTLY STOPPED UP

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Area</i>	<i>Street to be stopped up</i>	<i>Extent of stopping up</i>	<i>New street to be substituted</i>
Daventry District	Danes Way	The length of street shown coloured orange on the access and rights of way plan.	The length of street coloured light blue the access and rights of way plan.
Daventry District	Crick Covert Right of Way	The temporary right of way between points 1 and 3 shown coloured green on the access and rights of way plan.	A private right of way between points 1 and 2 shown on the access and rights of way plan along the estate roads to be constructed as part of Works No. 5 to allow access to Crick Covert.

PART 2

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Area</i>	<i>Street to be stopped up</i>	<i>Extent of stopping up</i>
Daventry District	Shenley Farm access	Full length of access from the A5 highway to Shenley Farm as shown between the points V and X shown on the access and rights of way plan.
Daventry District	New House Farm access	Full length of access from the A5 highway to New House Farm as shown between the points W and X shown on the access and rights of way plan.
Daventry District	B Station access	Full length of access from the A5 highway to B Station as shown between the points T and U shown on the access and rights of way plan.
Daventry District	Existing farm track	Full length of track between the points R and S shown on the access and rights of way plan.

SCHEDULE 5

Article 13

PUBLIC RIGHTS OF WAY TO BE STOPPED UP

PART 1

PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New public right of way to be substituted</i>
Parish of Yelvertoft	Bridleway FP3	Existing bridleway between the points A and B shown on the access and rights of way plan shown with a dashed red line.	New bridleway between the points A and B shown on the access and rights of way plan shown with a dashed blue line being (unless otherwise agreed in writing with the relevant highway authority) a 3 metre surface width within a 5 metre corridor.
Parishes of Yelvertoft and Lilbourne	Bridleway EX6 (part) FP2 (part)	Existing bridleway between the points A and D shown on the access and rights of way plan shown with a dashed red line.	A new bridleway between the points A and D shown on the access and rights of way plan shown with a dashed blue line being (unless otherwise agreed in writing with the relevant highway authority) a 3 metre surface width within a 5 metre corridor.
Parishes of Yelvertoft and Lilbourne	Footpath EX5 (part) FP1 (part)	Existing footpath between the points C and E shown on the access and rights of way plan shown with a dashed pink line.	A new bridleway between the points C and E shown on the access and rights of way plan shown with a dashed blue line being (unless otherwise agreed in writing with the relevant highway authority) a 3 metre surface width within a 5 metre corridor .

PART 2

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Parish of Yelvertoft	Bridleways FP2 and FP3 and Footpaths FP1.	The length within the Order limits as agreed by the relevant highway authority under article 13 (public rights of way – diversion and stopping up).
Parish of Lilbourne	Bridleway EX6 and Footpath EX5.	The length within the Order limits as agreed by the relevant highway authority under article 13.
Parishes of Yelvertoft and Lilbourne	New bridleway and footpaths provided as part of the authorised development.	The length within the Order limits as agreed by the relevant highway authority under article 13.

SCHEDULE 6

Article 27

PROTECTIVE PROVISIONS

Application

1. The provisions of this Schedule have effect unless otherwise agreed in writing between the undertaker and National Grid Gas Plc.

Interpretation

2. In this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable it to fulfil its statutory function in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Grid for the purpose of gas supply;

“commence” has the same meaning as in paragraph 1 of Schedule 2 (requirements);

“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, across, along or upon such land;

“maintain” and “maintenance” include the ability and right to construct, use or renew any apparatus or alternative apparatus of the undertaker;

“National Grid” means National Grid Gas plc, company number 2006000, registered at 1-3 Strand, London WC2N 5EH; and

“plans” include 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.

Acquisition of land

3. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker may not acquire any apparatus or override any easement or other interest of National Grid otherwise than by agreement.

Removal of apparatus

4.—(1) If, in the exercise of any agreement made in accordance with paragraph 3 (acquisition of land) or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Schedule and any right of National Grid to maintain that apparatus in that land is not extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (8).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid 56 days' advance 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 National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to National Grid to its satisfaction the necessary facilities and rights for—

- (a) the construction of alternative apparatus in other land of the undertaker; and
- (b) 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, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed except that this obligation does not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to it 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 Schedule.

Facilities and rights for alternative apparatus

5.—(1) Where, in accordance with this Schedule, the undertaker affords to National Grid 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 National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless agreed by it.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid 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 matter is to be referred to arbitration, and the arbitrator must make such provision for the payment of

compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

6.—(1) Not less than 56 days before commencing the execution of any works authorised by 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 4(2) or otherwise, the undertaker must submit to National Grid a plan.

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

- (a) the exact position of the works;
- (b) the level at which those works are proposed to be constructed or renewed;
- (c) the manner of the construction or renewal of those works including details of excavation, and the positioning of plant;
- (d) the position of all apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus.

(3) The undertaker must not commence the construction or renewal of any works to which sub-paragraph (2) applies until National Grid has given written approval of the plan so submitted.

(4) Any approval of National Grid required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to a work to which sub-paragraph (2) applies, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under this Order must be executed only in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (9), as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (5) or (7) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid is entitled to watch and inspect the execution of those works.

(7) Where National Grid requires any protective works (whether of a temporary or permanent nature) to be carried out either by itself or by the undertaker such protective works must be carried out to National Grid's satisfaction prior to the carrying out of any works authorised by the Order (or any relevant part of it) and National Grid must give 56 days' notice of such protective works from the date of submission of a plan in accordance with sub-paragraph (1) or (9) (except in an emergency).

(8) If National Grid in accordance with sub-paragraph (5) or (7) 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 4(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 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.

(10) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must —

- (a) comply with sub-paragraph (5), (6) and (7) in so far as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised by this Order the undertaker must comply with National Grid's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HSG 47 Avoiding Danger from underground services".

Expenses

7.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to National Grid on demand all charges, costs and expenses reasonably incurred by it in, or in connection with, the inspection, removal, relaying or replacing, 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 this Schedule including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that National Grid elects to use powers to acquire compulsorily any necessary rights under paragraph 4(3) all costs incurred as a result of such action;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Schedule and which is not re-used as part of the alternative apparatus, 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 settled by arbitration in accordance with article 30 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess except where it is not possible in the circumstances to obtain

the existing type of apparatus, capacity, dimensions or place at the existing depth in which case full costs must be borne by the undertaker.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not 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 must 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 National Grid in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

8.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these 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 National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand the cost reasonably incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as mentioned above.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision does not (subject to sub-paragraph (3)), excuse the undertaker from liability under the provisions of this 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 neglect or default of National Grid, its officers, servants, contractors or agents.

(4) National Grid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without first consulting the promoter and considering their representations.

Ground subsidence monitoring scheme in respect of National Grid's apparatus

9.—(1) No works within 15 metres of any apparatus or alternative apparatus are to commence until a scheme for monitoring ground subsidence (referred to in this paragraph as “the monitoring scheme”) which is capable of interfering with or risking damage to National Grid's apparatus has been submitted to and approved by it, such approval not to be unreasonably withheld or delayed.

(2) The monitoring scheme must set out—

- (a) the apparatus which is to be subject to such monitoring;

- (b) the extent of land to be monitored;
- (c) the manner in which ground levels are to be monitored;
- (d) the timescales of any monitoring activities; and
- (e) the extent of ground subsidence which, if exceeded, requires the undertaker to submit for National Grid's approval a ground subsidence mitigation scheme in respect of such subsidence in accordance with sub-paragraph (4).

(3) The monitoring scheme must be submitted within 56 days prior to the commencement of any works authorised by this Order or comprised within the authorised development. Any requirements of National Grid must be notified within 28 days of receipt of the monitoring scheme. Afterwards the monitoring scheme must be implemented as approved, unless otherwise agreed in writing with National Grid.

(4) As soon as reasonably practicable after any ground subsidence identified by the monitoring activities set out in the monitoring scheme has exceeded the level described in sub-paragraph (2)(e), a scheme setting out necessary mitigation measures (if any) for such ground subsidence (referred to in this paragraph as a "mitigation scheme") must be submitted to National Grid for approval, such approval not to be unreasonably withheld or delayed; and any mitigation scheme must be implemented as approved, unless otherwise agreed in writing by National Grid except that National Grid retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in accordance with paragraph 7.

(5) If the monitoring scheme or mitigation scheme would conflict with any aspect of any ground subsidence monitoring scheme or ground subsidence mitigation scheme approved by the relevant planning authority under Schedule 2 (requirements) the undertaker may submit a revised monitoring scheme or mitigation scheme to National Grid for its approval, such approval not to be unreasonably withheld or delayed; and the revised monitoring scheme or mitigation scheme must be implemented as approved, unless otherwise agreed in writing by National Grid.

Enactments and agreements

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

Co-operation

11. Where in consequence of the proposed construction of any of the authorised development, the undertaker and National Grid require the removal of apparatus under paragraph 4(2) (removal of apparatus) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 6 (retained apparatus), the undertaker must use its 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 National Grid's undertaking and National Grid must use its reasonable endeavours to co-operate with the undertaker for that purpose.

Access

12. If in consequence of any agreement made in accordance with paragraph 3 (acquisition of land) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

13. Except for differences or disputes arising under paragraphs 4(2), 4(4), 5(1) and 6 any difference or dispute arising between the undertaker and National Grid under this Schedule must,

unless otherwise agreed in writing between them, be determined by arbitration in accordance with article 30 (arbitration).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Rugby Radio Station Limited Partnership and Prologis UK Limited and their associated companies to construct, operate and maintain, an alteration to the existing Daventry International Rail Freight Terminal Interchange together with associated development. For the purposes of the development that it authorises, Rugby Radio Station Limited Partnership and Prologis UK Limited and their associated companies are authorised by the Order to construct and use the authorised development and to compulsorily acquire rights over land. The Order also authorises the making of alterations to the highway network, stopping up and diversion of public rights of way and to discharge water.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 28 (certification of plans etc) of this Order may be inspected free of charge at the offices of Daventry District Council at Lodge Road Daventry NN11 4FP and Rugby Borough Council Town Hall Evreux Way CV21 2RR.

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