

**2015 No. 147**

**INFRASTRUCTURE PLANNING**

**The Cornwall Council (A30 Temple to Higher Carblake  
Improvement) Order 2015**

*Made* - - - - - *5th February 2015*

*Coming into force* - - - *26th February 2015*

**CONTENTS**

**PART 1**

**PRELIMINARY**

1. Citation and commencement
2. Interpretation

**PART 2**

**PRINCIPAL POWERS**

3. Development consent etc. granted by the Order
4. Maintenance of authorised development
5. Limits of deviation
6. Benefit of Order
7. Consent to transfer benefit of Order

**PART 3**

**STREETS**

8. Power to alter layout etc. of streets
9. Street works
10. Construction and maintenance of new or altered streets
11. Classification of roads
12. Stopping up of streets
13. Temporary prohibition or restriction of use of streets
14. Access to works
15. Agreements with street authorities

**PART 4**

**SUPPLEMENTAL POWERS**

16. Discharge of water

17. Protective work to buildings
18. Authority to survey and investigate the land

## PART 5 POWERS OF ACQUISITION

19. Compulsory acquisition of land
20. Time limit for exercise of authority to acquire land compulsorily
21. Compulsory acquisition of rights
22. Private rights
23. Restrictions on user
24. Application of the Compulsory Purchase (Vesting Declarations) Act 1981
25. Acquisition of subsoil or airspace only
26. Acquisition of part of certain properties
27. Rights under or over streets
28. Temporary use of land for carrying out the authorised development
29. Temporary use of land for maintaining authorised development
30. Special category land
31. Statutory undertakers
32. Apparatus and rights of statutory undertakers in stopped-up streets
33. Recovery of costs of new connections

## PART 6 MISCELLANEOUS AND GENERAL

34. Operational land for purposes of the 1990 Act
35. Felling or lopping of trees
36. Defence to proceedings in respect of statutory nuisance
37. Certification of plans etc.
38. Arbitration
39. Service of notices
40. Requirements, appeals etc.

---

## SCHEDULES

- SCHEDULE 1 — AUTHORISED DEVELOPMENT
- SCHEDULE 2 — REQUIREMENTS
- SCHEDULE 3 — STREETS SUBJECT TO ALTERATION IN LAYOUT
- SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS
- SCHEDULE 5 — STREETS TO BE STOPPED UP
  - PART 1 — STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED
  - PART 2 — PRIVATE ACCESSES FOR WHICH A SUBSTITUTE IS TO BE PROVIDED
  - PART 3 — STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED
  - PART 4 — PRIVATE ACCESS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

SCHEDULE 6 — ACCESS TO AND FROM WORKS

SCHEDULE 7 — LAND OF WHICH TEMPORARY POSSESSION MAY BE  
TAKEN

SCHEDULE 8 — DISCHARGE OF REQUIREMENTS

An application has been made to the Secretary of State, under section 37 of the Planning Act 2008<sup>(a)</sup> (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009<sup>(b)</sup> for an order granting development consent.

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

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

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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 19, 22, 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

---

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

(b) 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.

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

# PART 1

## PRELIMINARY

### Citation and commencement

1. This Order may be cited as the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015 and comes into force on 26th February 2015.

### Interpretation

2.—(1) In this Order—

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

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

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

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

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

“the 2008 Act” means the Planning Act 2008;

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

“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;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“electronic transmission” means a communication transmitted—

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

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

“environmental impact assessment” means the assessment of the environmental impact of the authorised development, the findings of which are recorded in the environmental statement and all other environmental information submitted during the examination;

“the environmental statement” means the environmental statement submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(f) and certified as such by the Secretary of State for the purposes of this Order;

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

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

“the land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

---

(a) 1961 c. 33.

(b) 1965 c. 56.

(c) 1980 c. 66.

(d) 1990 c. 8.

(e) 1991 c. 22.

(f) S.I. 2009/2264. Regulation 5 was amended by S.I. 2012/635.

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

“local planning authority” means the Cornwall Council;

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

“Order land” means the land shown on the land plan which is land or rights to be acquired or used and described in the book of reference;

“the Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

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

“the sections” means the sections identified in the definition of “approved plans” contained in requirement 1(1) (interpretation) and certified as the sections by the Secretary of State for the purposes of this Order;

“the Special Category Replacement Land plans” means the plans certified as the Special Category Replacement Land plans by the Secretary of State for the purposes of this Order;

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

“street” means a street within the meaning of section 48 (streets, street works and undertakers) 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;

“street plan” means the plan certified as the street plan by the Secretary of State for the purposes of this Order;

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

“undertaker” means the person who has the benefit of this Order in accordance with articles 6 (benefit of Order) and 7 (consent to transfer benefit of Order);

“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 plan” means the plan identified in the definition of “approved plans” contained in requirement 1(1) and certified as the works plan 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 airspace above its surface.

(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) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the street plans as the case may be.

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

---

(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

## PART 2

### PRINCIPAL POWERS

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

3. Subject to the provisions of this Order and to the requirements in Schedule 2 (requirements) the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

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

4. 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.

#### **Limits of deviation**

5. In carrying out those works numbered 1 to 5 (inclusive) in Schedule 1 (authorised development) the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plan to the extent of the limits of deviation shown on that plan; and
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 1 metre upwards or downwards.

#### **Benefit of Order**

6. Subject to article 7 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the Cornwall Council.

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

7.—(1) The undertaker may—

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

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

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

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to the Secretary of State.

## PART 3 STREETS

### **Power to alter layout etc. of streets**

**8.**—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the streets specified in column (2) of Schedule 3 (streets subject to alteration of layout) in the manner described in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1) but subject to paragraph (3) 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 any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway in the street; and
- (d) make and maintain passing places or lay-bys.

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

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority; but such consent must not be unreasonably withheld.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(6) Paragraphs (3), (4) and (5) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

### **Street works**

**9.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (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;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

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

**10.**—(1) Subject to paragraph (2), the streets authorised to be constructed, altered or diverted under this Order are to be public highways and are to be maintained by and at the expense of the highway authority.

(2) Where a street which is not and is not intended to be a public highway is constructed, altered, or diverted under this Order, the street (or part of the street as the case may be), when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, is to be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of damage resulting from its failure to maintain a street to which paragraph (2) applies, section 58 (special defence in action against a highway authority for damages for non-repair of highway)(a) of the 1980 Act applies as if that street were a highway maintainable at the public expense.

### **Classification of roads**

**11.**—(1) From the date on which the undertaker notifies the Secretary of State that the new dual carriageway referred to in Work No. 1 has been completed and open to through traffic—

- (a) the Secretary of State is to be the highway authority for this road; and
- (b) it is classified as a trunk road for the purposes of any enactment or instrument which refers to highways classified as trunk roads.

(2) From the date on which the undertaker commences the authorised development the section of road denoted D4/1 on the street plan—

- (a) ceases to be part of the A30 trunk road as if it had ceased to be a trunk road by virtue of an order under section 10(2) of the 1980 Act; and
- (b) is classified as part of the U6131 as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

### **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, 2, 3 and 4 of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of those Parts of that Schedule.

(2) No street specified in columns (1) and (2) of Parts 1 and 2 of Schedule 5 (being a street or private access 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 those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Parts 3 and 4 of Schedule 5 (being a street or private access 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

---

(a) As amended by section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).



- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
  - (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street has been stopped up under this article—
- (a) all rights of way over or along the street so stopped up are extinguished; and
  - (b) the 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 or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (7) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped-up streets).

**Temporary prohibition or restriction of use of streets**

- 13.—**(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit or restrict the use of any street and may for any reasonable time—
- (a) divert the traffic from the street; and
  - (b) subject to paragraph (3), prevent all persons from passing along the street.
- (2) Without limitation on the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.
- (3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.
- (4) The undertaker must not temporarily alter, divert, or prohibit or restrict the use of any street, without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld, except that this paragraph does not apply where the undertaker is the street authority.
- (5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (6) If, within 28 days of receiving an application for consent under paragraph (4), a street authority fails to notify the undertaker of its decision that street authority is deemed to have granted consent.

**Access to works**

- 14.** The undertaker may, for the purposes of the authorised development—
- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 6 (access to works); and
  - (b) with the approval of the local planning authority after consultation with the highway authority (where the highway authority is not the undertaker), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

**Agreements with street authorities**

- 15.—**(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street including any structure carrying the street;

- (b) the strengthening, improvement, repair or reconstruction of any street;
  - (c) the maintenance of the structure of any bridge or tunnel carrying a street;
  - (d) any stopping up, alteration or diversion of a street authorised by this Order; or
  - (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and street 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.

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**16.—**(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 (right to communicate with public sewers) of the Water Industry Act 1991(a).

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

- (4) The 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 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 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) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2010(b).

---

(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), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I. 2010/675, as amended by S.I. 2011/2043 and S.I. 2013/390; there are other amending instruments but none are relevant.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, 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<sup>(a)</sup> have the same meaning as in that Act.

### **Protective work to buildings**

17.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

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

(3) Subject to paragraph (5), for the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

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

(5) Before exercising—

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

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

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 38 (arbitration).

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

(8) Where—

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

---

(a) 1991 c. 57.

that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

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

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

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

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

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

### **Authority to survey and investigate the land**

**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 and occupier of the land.

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

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

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

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

but such consent must not be unreasonably withheld.

(5) The 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 (determination of questions of disputed compensation) of the 1961 Act.

---

(a) As amended by S.I. 2009/1307.

## PART 5

### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

**19.** Except for land in respect of which the undertaker may acquire compulsorily existing rights or new rights under article 21 (compulsory acquisition of rights) or in respect of which the undertaker may take temporary possession under article 28(1)(a)(i) (temporary use of land for carrying out the authorised development) the undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental, to it or is required as replacement land for the special category land referred to in article 30 (special category land).

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

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

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(a) as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### **Compulsory acquisition of rights**

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

(2) As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new right is acquired is discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, (or, where the circumstances set out in paragraphs (1)(a) and (1)(b) of article 26 (acquisition of part of certain properties) apply, subject to the provisions of article 26), 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.

(4) Any person who suffers loss as a result of the extinguishment or 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.

#### **Private rights**

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

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

---

(a) 1981 c. 66. Sections 2 and 116 were amended by Section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to the 1981 Act which are not relevant to this Order.

(b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

whichever is the earlier.

(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 exercise of the right under this Order—

(a) as from the date of acquisition of the land 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 ,  
whichever is the earlier.

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

(4) Subject to the provisions of this article, all private rights over Order land owned by the undertaker are extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights.

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

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 31 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land;

(ii) the undertaker's appropriation of it;

(iii) the undertaker's entry onto it; or

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

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

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

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

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

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

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

(9) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

### **Restrictions on user**

**23.—**(1) The carrying out or use of development authorised by this Order and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, regardless of whether it involves a breach of a restriction as to user of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by a breach of a restriction as to user of land arising by virtue of contract, if that breach is authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) by virtue of section 152(5) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(4) Any rule or principle applied to the construction of section 10 of the 1965 Act is to be applied to the construction of paragraph (2) (with any necessary modifications).

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

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

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

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

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

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

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

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

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

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

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

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

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

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

### **Acquisition of subsoil or airspace only**

**25.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or airspace over, the land that may be acquired under article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of, or airspace over, land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

---

(a) 1981 c. 66.

(3) Paragraph (2) does not prevent article 26 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

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



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

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

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

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

**27.**—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace 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.

(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 who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

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

**28.**—(1) The undertaker may, in connection with the carrying out of the authorised development

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

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

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

- (a) after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to replace a building removed under this article.

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

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

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

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

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

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

### **Temporary use of land for maintaining authorised development**

**29.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

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

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

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

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

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

(11) In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

### **Special category land**

**30.—**(1) The special category land or the rights to be acquired over special category land (as the case may be) are not to vest in the undertaker until the undertaker has acquired the replacement land and the local planning authority has certified that a scheme for the provision of the replacement land as common land has been implemented to its satisfaction.

(2) On the requirements of paragraph (1) being satisfied, the replacement land is to vest—

- (a) in respect of land numbered 04/04, in Rupert Hanbury-Tenison;
- (b) in respect of land numbered 04/17, in Susan Mindy Grace;
- (c) in respect of land numbered 05/04, in Victor Newman; and
- (d) in respect of land numbered 05/07, in Pencarrow Maintenance Trust,

subject to the same rights, trusts and incidents as attached to the special category land; and the special category land is to be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article—

"the special category land" means—

- (a) the land numbered 04/09, 04/12, 04/32, 04/35, 04/40, 04/44, 04/65(part) and 05/02 in the book of reference and shown blue on the Special Category Replacement Land plans and forming part of common land, which may be acquired compulsorily under this Order; and
- (b) those rights numbered 04/75 and 04/76 in the book of reference and on the Special Category Replacement Land plans and forming part of common land, which may be acquired compulsorily under this Order.

and for which replacement land is to be provided; and

"the replacement land" means the land numbered 04/04, 04/17, 05/04 and 05/07 in the book of reference and shown green on the Special Category Replacement Land plans.

## **Statutory undertakers**

**31.** The undertaker may —

- (a) acquire compulsorily, or acquire new rights over, the land belonging to statutory undertakers shown on the land plan within the limits of the land to be acquired and described in the book of reference; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

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

**32.—**(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 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 utility in or in connection with—

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

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

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

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

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

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

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

of the time for renewal of the apparatus in the ordinary course, is to 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 (sharing of cost of necessary measures) of that Act 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.

(8) In this article—

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

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

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

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

**33.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 32 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 32, any person who is—

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

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

(3) This article does not have effect in relation to apparatus to which article 33 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

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

## **PART 6**

### **MISCELLANEOUS AND GENERAL**

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

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

---

(a) 2003 c. 21.

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

**35.**—(1) 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.

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

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

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

(2) Section 61(9) of the Control of Pollution Act 1974 and section 65(8) of that Act do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Certification of plans etc.**

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

- (a) the book of reference;
- (b) the land plan;
- (c) the street plan;
- (d) the works plan;
- (e) the sections;
- (f) the Special Category Replacement Land plans;

---

(a) 1990 c. 43. There are amendments to subsection 82(1) which are not relevant to this Order.

(b) Subsection 82(2) was amended by section 5(1) and (2) of the Noise and Statutory Nuisance Act 1993 (c. 40); there are other amendments to this subsection but none are relevant to this Order.

(c) 1974 c. 40. Section 61 and 65 were amended by section 162 of, and paragraph 15(1), (3) and (4) of Schedule 15 to, the Environmental Act 1990 (c. 43); there are other amendments to sections 61 and 65 but none are relevant to this Order.

- (g) the environmental statement; and
- (h) the environmental mitigation schedule (as defined in Requirement 1 of Schedule 2 (requirements))

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.

### **Arbitration**

**38.** 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) by the President of Institute of Civil Engineers.

### **Service of notices**

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

- (a) by post; or
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied.

(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<sup>(a)</sup> 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 the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

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

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of

---

(a) 1978 c. 30.

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.

#### **Requirements, appeals etc.**

**40.** Schedule 8 (discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements set out in Schedule 2 (requirements).

Signed by authority of the Secretary of State for Transport

5th February 2015

*Stephen Cave*  
Head of Rail Projects  
Department for Transport



# SCHEDULES

## SCHEDULE 1

Articles 2 & 3

### AUTHORISED DEVELOPMENT

#### **In the County of Cornwall—**

A nationally significant infrastructure development as defined in sections 14 and 22(a) of the 2008 Act, comprising:

#### **Work No.1**

The improvement of 5.15 kilometres of permanent highway by dualling 4.5 kilometres of the A30 trunk road which is currently single carriageway between Temple and Higher Carblake, to include—

- (a) the widening and realignment of the existing A30 single carriageway plus climbing lane to a two lane dual 2 all purpose carriageway including maintenance lay-bys, hard strips, central reserve and verges;
- (b) the reconfiguration, improvement or adjustment of access to the existing service stations on the eastbound carriageway of the A30 to suit the revised carriageway layout;
- (c) the reconfiguration, improvement or adjustment of the access to Higher Carblake;
- (d) the reconfiguration, diversion or adjustment of existing Public Rights Of Way (numbers FP/508/1, FP/508/14, and FP/508/15) which abut the existing A30 trunk road within the length of the scheme to suit the new layout;
- (e) the construction of a sustainable drainage system (“SuDS”) to accommodate the existing and increased carriageway run-off, to include—
  - (i) traditional rainwater run-off collection (gullies, fin or carrier drains);
  - (ii) construction of 3 attenuation basins controlled by flow control devices, down stream defenders and connections into existing outfalls at three positions in the vicinity of Higher Carblake, Pounds Conce and Temple Tor;
  - (iii) the alteration and improvement of an existing drainage culvert in the vicinity of Pounds Conce and at Temple Tor;
  - (iv) provision of vehicular and pedestrian access to maintain highway drainage features at each of the three locations; and
  - (v) landscaping works;
- (f) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works;
- (g) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (h) the temporary removal of the grade II listed milestone east of Glenavon (Listing ID 1142395); and
- (i) other drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 1.

---

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

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

### **Work No. 2**

The construction of a new grade separated junction located at Cardinham Downs to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the construction of associated side roads;
- (c) the reconfiguration (stopping up) of the existing C class (C0109) road from Whitecross to the A30 Trunk Road at its junction with the A30;
- (d) construction of new cattle grids and by-passes;
- (e) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (f) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (g) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 2.

### **Work No.3**

The construction of a new grade separated junction located at Preeze Cross to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the reconfiguration of existing or construction of new associated side roads;
- (c) the reconfiguration of the junction for Higher Colvannick;
- (d) the reconfiguration and relocation of the private access for the South West Water reservoir site connecting it onto the new side road network;
- (e) construction of new cattle grids and by-passes;
- (f) the construction of a retaining structure to support the South West Water reservoir in the vicinity of Preeze Cross, facilitating the carriageway widening in this area;
- (g) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (h) the reconfiguration, diversion or adjustment of existing Public Rights Of Way (numbers FP/503/16 and FP/508/9) which abut and or cross the existing A30 trunk road within the length of the scheme to suit the new layout;
- (i) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (j) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 3.

### **Work No. 4**

The construction of a new grade separated junction located at Temple Tor to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the realignment and construction of associated side roads;
- (c) construction of new cattle grids;

- (d) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (e) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (f) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation and other works associated with the construction of Work No. 4.

**Work No. 5**

The reconfiguration and relocation of private accesses to specific properties to redirect these onto the side road network, including—

- (a) for Lynhurst in the vicinity of Preeze Cross; and
- (b) for Greenbarrow in the vicinity of the Temple Tor junction;
- (c) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (d) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 5.

**Work No. 6**

The construction of accommodation works associated with the replacement land (as defined in paragraph (3) of article 30 (special category land)) including—

- (a) the removal or relocation of existing fencing or hedges or the construction of new fencing or hedges to separate common land from privately owned land or highway as required by the adjustment of common land boundaries and provision of exchange land;
- (b) the construction of two culverts to a watercourse at the boundary of the replacement land at Hawks Tor to facilitate access to the land by livestock or agricultural vehicles; and
- (c) the construction of a replacement stock corral adjacent to the revised common land boundary between privately owned land and Greenbarrow common;

and in connection with such works further development within the Order limits consisting of—

- (a) ramps, means of access, footpaths and bridleways;
- (b) embankments, abutments, foundations, retaining walls, drainage, wing walls, highway lighting, fencing, hedging and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance or reconstruction of any streets; and
- (h) such other works, including contractor's compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purpose of or in connection with the construction of the authorised development,

and which fall within the scope of the environmental impact assessment.

## SCHEDULE 2 REQUIREMENTS

Article 3

### Interpretation

1.—(1) In this Schedule—

“the approved plans” means the plans listed below and such revised or supplementary plans as may be approved under these requirements—

- (a) the works plan (document reference TRXCP311/PA/2.03 version 3 dated 3rd July 2014 comprising drawing numbers TRXCP311\_PA\_2.03\_00 Revision A and TRXCP311\_PA\_2.03\_01 Revision B to TRXCP311\_PA\_2.03\_5 Revision B); and
- (b) the long sections and cross sections (document reference TRXCP311/PA/2.05 version 2 dated 3rd July 2014 comprising drawing numbers TRXCP311\_PA\_2.05\_00 Revision A to TRXCP311\_PA\_2.05\_30 Revision A).

“CEMP” means construction environment management plan;

“environmental mitigation schedule” means the document certified as the environmental mitigation schedule in accordance with article 37(1) (certification of plans etc.);

“environmental statement” means the document certified as the environmental statement in accordance with article 37(1) (certification of plans etc.);

“heavy goods vehicle” means a heavy goods vehicle of more than 7.5 tonnes gross vehicle weight;

“LEMP” means the landscape and ecology management plan; and

“the road” means the improved dual carriageway road referred to in Work No.1.

(2) Where under any of the requirements the approval or agreement of the local planning authority or another person is required—

- (a) the matter which requires approval or agreement must be submitted in writing for such approval or agreement; and
- (b) the approval or agreement must be given in writing.

(3) Where any requirement provides that the authorised project is to be carried out in accordance with details, or a scheme, plan or other document approved or agreed by the local planning authority, the approved or agreed details, scheme, plan or other document are to be taken to include any amendments or revisions subsequently approved or agreed by the local planning authority.

(4) Where any requirement specifies “unless otherwise approved by the local planning authority” such approval is not to be given except in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the local planning authority that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### Time limits

2. The authorised development must commence within 5 years of the date on which this Order comes into force.

### Commencement

3. Notice of commencement of the authorised development must be given by the undertaker to the local planning authority not later than 7 days after the date on which the authorised development is commenced.

## Construction environmental management plan

4.—(1) No authorised development must commence until a CEMP has been submitted to and approved by the local planning authority.

(2) The CEMP must include, as a minimum, the construction related mitigation measures set out in the environmental mitigation schedule and—

- (a) measures to mitigate the effects of control of noise and vibration during construction;
- (b) measures to mitigate the effects of control of dust and air quality during construction;
- (c) measures to mitigate the effects of control of lighting during construction;
- (d) measures to control and manage surface water during construction;
- (e) measures to control and manage site waste management;
- (f) measures to control and manage access by construction traffic;
- (g) traffic management;
- (h) measures to mitigate any interruption of access to businesses, including agricultural holdings;
- (i) measures to control and manage the potential effects of contaminants and pollutants;
- (j) measures to mitigate the effects of construction activities on health and safety;
- (k) measures to exclude fish from watercourses;
- (l) measures to mitigate the construction effects on sensitive ecological receptors;
- (m) measures to mitigate the construction effects on archaeology and cultural heritage;
- (n) landscape and visual mitigation;
- (o) measures for the protection of any European or nationally protected species from activities associated with the authorised development;
- (p) repeat surveys to be undertaken to confirm the presence of any European or nationally protected species;
- (q) measures to mitigate the effects of the activities associated with the authorised development on European or nationally protected species and identified in the surveys required by sub-paragraph (p);
- (r) a programme for implementation of the proposed measures required by sub-paragraphs (o), (p) and (q); and
- (s) details of the restoration of the Bodmin Moor North Site of Special Scientific Interest including details of all proposed landscape works.

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

(4) Where a European or nationally protected species is shown to be present no authorised development is to commence until a scheme of protection and mitigation measures prepared after consultation between the local planning authority and Natural England has been submitted to and approved by the local planning authority and subsequently the authorised development is to be carried out in accordance with the approved scheme.

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

---

(a) S.I. 2010/490

### **Final surface water drainage**

5.—(1) No part of the authorised development is to commence until a scheme for surface water drainage has been submitted to and approved by the local planning authority, in consultation with the Environment Agency.

(2) The scheme must include—

- (a) details of the final drainage scheme;
- (b) a construction quality control procedure;
- (c) provision for surface water overland exceedance flow routes;
- (d) plans for the management of surface water from land surrounding the authorised development;
- (e) plans for the future management and maintenance of the surface water drainage system; and
- (f) details of wetland features in the storage ponds.

(3) The approved scheme must be implemented in its entirety.

### **Implementation**

6.—(1) The authorised development must be carried out within the Order limits and limits of deviation shown on the approved plans.

(2) The authorised development must be carried out in accordance with the illustrative engineering detail shown on the approved plans, unless otherwise approved by the local planning authority.

### **Landscape and ecology management plan**

7.—(1) No part of the authorised development is to commence until a written LEMP has been submitted to and approved by the local planning authority, in consultation with Natural England and the Cornwall AONB Unit.

(2) The LEMP must include, as a minimum, the operational mitigation measures set out in the environmental mitigation schedule and—

- (a) details of the landscape and ecological mitigation, and compensation measures to be undertaken; and
- (b) details of the management and monitoring of landscape and ecological mitigation, and compensation measures to be undertaken.

(3) The approved LEMP must be implemented in its entirety.

### **Contaminated land**

8.—(1) In the event that contaminated materials are found at any time when carrying out the authorised development which were not previously identified in the environmental statement, it must be reported immediately in writing to the local planning authority and the undertaker must complete a risk assessment of the contamination.

(2) Where the local planning authority determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved by the local planning authority.

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

### **Building and construction materials – highways**

9.—(1) No part of the authorised development is to commence until written details of the materials to be used for the surfacing of the new highway have been submitted to and approved by the local planning authority.

(2) The details submitted under sub-paragraph (1) must include provision for the use of low noise road surfacing materials on the highway.

(3) The authorised development must be carried out using the materials approved under sub-paragraph (1).

### **Building and construction materials – structures**

**10.**—(1) No part of the authorised development is to commence until written details of the building materials to be used for the external facings of all structures, including bridges, retaining walls and culvert sides and headwalls, have been submitted to and approved in writing by the local planning authority.

(2) The authorised development must be carried out using the materials approved under sub-paragraph (1).

### **Soil**

**11.**—(1) All soil must be removed from any part of the Order land that is to be excavated or traversed by heavy goods vehicles, plant or machinery, or where roads, buildings, plant yards or stores are to be constructed on it; and all such soil must be stored on the site for use in the restoration of the site.

(2) No soil is to be sold or otherwise removed from the Order land unless otherwise approved by the local planning authority.

(3) Any approval given under sub-paragraph (2) does not remove the need to secure any relevant environmental permits under the Environmental Permitting (England and Wales) Regulations 2010(a).

### **Safeguarding of watercourses and drainage**

**12.**—(1) Provision must be made for the collection, treatment and disposal of all water entering or arising on the Order land during highway construction operations to ensure that there is no discharge of contaminated or polluted drainage to ground or surface waters.

(2) All foul drainage must be discharged to a public sewer or else to a sealed tank, the contents of which must be removed from the Order land in their entirety.

(3) Any chemical, oil or fuel storage container on the Order land must be sited on an impervious surface with bund walls, and the volume of the bunded area must be the equivalent of 110% of the volume of the container and must contain within its curtilage all fill and draw pipes, vents, gauges and sight glasses.

(4) The drainage system of the bund must be sealed with no discharge to any watercourse, land or underground strata.

(5) No part of the authorised development is to commence until a scheme and programme of pollution control measures has been submitted to and approved by the local planning authority, in consultation with the Environment Agency. The scheme must include measures for sediment removal at all drainage outfalls.

(6) The authorised development must be carried out in accordance with the scheme and programme approved under sub-paragraph (5).

### **Protection of controlled waters**

**13.**—(1) No part of the authorised development is to commence until a scheme for the protection of controlled waters, as defined in section 104 of the Water Resources Act 1991(b) has

---

(a) S.I. 2010/675

(b) S.I. 1991/57

been submitted to and approved by the local planning authority, in consultation with the Environment Agency.

(2) The approved scheme must be implemented in its entirety.

### **Archaeology**

**14.**—(1) No part of the authorised development is to commence until a written scheme of archaeological investigation which must include, as a minimum, the archaeological mitigation measures set out in the environmental mitigation schedule has been submitted to and approved by the local planning authority.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1).

(3) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in place and reported to the local planning authority in writing within 3 working days.

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

(5) If the local planning authority is of the view that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the investigation and recording of the remains in accordance with details first submitted in writing to, and approved by, the local planning authority.

### **Landscaping and planting scheme**

**15.**—(1) No part of the authorised development is to commence until a detailed landscaping scheme has been submitted in writing to, and approved by, the local planning authority, in consultation with Natural England and Cornwall AONB Unit.

(2) The detailed landscaping scheme must include details of all proposed landscape works including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) pedestrian footpaths, bridleways and circulation areas;
- (e) details of existing trees to be retained, with measures for their protection during construction works; and
- (f) plant establishment, maintenance and management arrangements.

(3) All landscaping works must be carried out in accordance with the detailed landscaping scheme approved under sub-paragraph (1).

(4) Any tree or shrub planted as part of the approved detailed landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the local planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species as that originally planted, unless the local planning authority gives consent to any variation.

(5) All hedges and trees forming part of the boundary of the Order land or situated within it (unless shown to be removed in the environmental statement) must be protected from any damage and maintained throughout the authorised development.

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

(7) All areas of the site left undisturbed, and all soil, soil-making material and overburden mounds must be kept free from invasive and noxious weeds throughout the carrying out of the authorised development.



### **Safeguarding of listed milestone 1142395**

**16.**—(1) No part of the authorised development is to commence until a written scheme for the protection of the grade II listed milestone 1142395 has been submitted to and approved by the local planning authority in consultation with English Heritage.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1).

### **Post construction monitoring**

**17.**—(1) Before completion of the authorised development a post construction monitoring plan must be submitted to, and agreed by, the local planning authority.

(2) The plan must include monitoring of the effects of the scheme on—

- (a) European and nationally protected species;
- (b) air quality and emissions levels;
- (c) noise levels;
- (d) traffic and economic data; and
- (e) water quality.

(3) Post construction monitoring must be carried out in accordance with the plan approved under sub-paragraph (1).

## SCHEDULE 3

Article 8

### STREETS SUBJECT TO ALTERATION IN LAYOUT

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration in layout</i>	<i>(3)</i> <i>Description of alteration</i>
In the County of Cornwall—		
Parish of Blisland District of Lanivet & Blisland.	C0109 to Blisland	Alteration to the level of the carriageway to provide access to a property at the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road from a point 7 metres north east of the junction for a distance of 13 metres north-eastwards along the C0109 and access.
Parish of Blisland District of Lanivet & Blisland.	C0109 to Blisland	An increase to the width and alteration to the level of the carriageway to provide a turning head from a point 35 metres north east of the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road north-eastwards along the C0109 for a distance of 22 metres.
Parish of Blisland District of Lanivet & Blisland.	C0109 to Blisland	An increase to the width and alteration to the level of the carriageway to provide a turning head from a point 411 metres north east of the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road north-eastwards along the C0109 for a distance of 96 metres to form a new side road junction and provide a new cattle grid.
Parish of Cardinham District of Lanivet & Blisland.	U6139 to Cardinham	An increase to the width and alteration to the level of the carriageway from a point 37 metres south of the junction of the existing U6139 and the southern side of A30 Trunk Road southwards for a

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration in layout</i>	<i>(3)</i> <i>Description of alteration</i>
Parish of Blisland District of Lanivet & Blisland.	C0034 to Tresarrett	distance of 57 metres to form a new side road junction.  An increase to the width and alteration to the level of the carriageway from a point 13 metres north of the existing junction of the C0034 to Tresarrett and the northern side of the A30 Trunk Road at Preeze Cross for a distance of 173 metres in a northerly direction to form a new side road junction.
Parish of Cardinham District of Lanivet & Blisland	C0110 to Millpool	An increase to the width and alteration to the level of the carriageway from a point 19 metres south of the existing junction of the C0110 to Millpool and the southern side of the A30 Trunk Road at Preeze Cross for a distance of 44 metres in a southerly direction along the C0110 to provide a turning head and a new link to the side road network for local traffic movements.
Parishes of Blisland & Cardinham District of Lanivet & Blisland	U6139	An increase to the width and alteration to the level of the carriageway from a point 48 metres south-west of the existing eastern junction of the U6139 and the southern side of the A30 Trunk Road near Pounds Conce for a distance of 317 metres westwards along the U6139 to provide a new link road and junctions for local traffic movements.
Parish of Blisland District of Lanivet & Blisland	U6131 to Waterloo	An increase to the width and alteration to the level of the carriageway from a point 14 metres north of the existing junction of the U6131 and the northern side of the A30 Trunk Road for a distance of 64 metres in a northerly direction along the U6131 to join a new side road for local traffic movements.

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration in layout</i>	<i>(3)</i> <i>Description of alteration</i>
Parish of Blisland District of Lanivet & Blisland	U6139 to Temple	An increase in width and alteration to the level of the carriageway from a point 290 metres east of the existing junction of the U6131 to Temple and the southern side of the A30 Trunk Road at Temple Fisheries Picnic Site for a distance of 24 metres in an easterly direction to provide a new junction with the new private access to the property known as Greenbarrow.
Parish of Blisland District of Lanivet & Blisland	C0300 to Bradford	An increase to the width and alteration to the level of the carriageway from a point 80 metres north west of the existing junction of the C0300 for a distance of 93 metres in a north-westerly direction commencing at the new north-western boundary of A30 Trunk Road at Temple Tor junction to provide embankment and approach road to a new bridge across the A30.
Parish of Blisland District of Lanivet & Blisland	U6139 to Temple	An increase to the width and alteration to the level of the carriageway from a point 80 metres south east of the existing junction of the U6139 for a distance of 247 metres in a south-easterly direction commencing at the southern boundary of A30 Trunk Road at Temple Tor junction, to provide an embankment and approach road to a new bridge across the A30.

## SCHEDULE 4

Article 9

### STREETS SUBJECT TO STREET WORKS

---

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street subject to street works</i>
In the County of Cornwall—	
Parishes of Blisland and Cardinham District of Lanivet and Blisland.	A30 Trunk Road C0109 to Blisland U6139 to Cardinham Public Footpath 508/1 C0034 to Tresarrett C0110 to Millpool U6139 South West of Pounds Conce Public Footpath 508/9 Public Footpath 503/16 Public Footpath 508/14 U6131 to Waterloo Public Footpath 508/15 U6139 to Temple U6131 West of Temple Tor Junction C0300 to Bradford

---

## SCHEDULE 5

Article 12

### STREETS TO BE STOPPED UP

#### PART 1

#### STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> Area	<i>(2)</i> Street to be stopped up	<i>(3)</i> Extent of stopping up	<i>(4)</i> New street to be substituted
<i>In the County of Cornwall—</i>			
Parish of Cardinham District of Lanivet & Blisland.	C0109 to Blisland (Reference S1/1 – Street Plan Sheet No. 1)	From the northern carriageway edge of the A30 Trunk Road at its junction with the existing western junction of the C0109 to Blisland for a distance of 7 metres in a north-easterly direction.	Reference A1 (Street Plan Sheet No.1)
Parish of Cardinham District of Lanivet & Blisland.	C0109 to Blisland (Reference S1/2 – Street – Street Plan Sheet No. 1)	From the northern carriageway edge of the A30 Trunk Road, at its junction with the eastern junction of the C0109 to Blisland, in a north-westerly direction for a distance of 11 metres.	Reference A1 (Street Plan Sheet No.1)
Parish of Blisland District of Lanivet & Blisland.	C0300 to Bradford (Reference S8/1 – Street Plan Sheet No. 8)	From a point on the northern carriageway edge of the A30 Trunk Road, at existing Temple Tor crossroads junction, for a distance of approximately 79 metres in a north- westerly direction.	Reference A8, B8 & C8. (Street Plan Sheet Nos.8)
Parish of Blisland District of Lanivet & Blisland.	U6139 to Temple (Reference S8/2 – Street Plan Sheet No.8)	From a point on the southern carriageway edge of the A30 Trunk Road, at existing Temple Tor crossroads junction, for a distance of approximately 77	Reference A8, B8 & C8. (Street Plan Sheet Nos.8)

metres in a south-easterly direction.

## PART 2

### PRIVATE ACCESSES FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) Area	(2) Private Access to be stopped up	(3) Extent of stopping up	(4) Private Access to be substituted
In the County of Cornwall—			
Parish of Cardinham District of Lanivet and Blisland.	Access X2/2 (Street Plan Sheet No.2)	Field access 55 metres east of the eastern access to Darcroft Garage for a distance of 3 metres from the boundary southwards and over the width of the access.	Reference P2/1 (Street Plan Sheet No. 2)
Parish of Cardinham District of Lanivet and Blisland.	Access X3/1 (Street Plan Sheet No.3)	Field access 32 metres west of the junction with the C0110 to Millpool from the southern boundary of the A30 Trunk Road southwards for a distance of 3 metres over the width of the access.	Reference P3/3 (Street Plan Sheet No.3)
Parish of Blisland District of Lanivet and Blisland.	Access X3/2 (Street Plan Sheet No.3)	Access to the property known as Lyndhurst from the northern boundary of the A30 Trunk Road to a point 3 metres northwards over the width of the access.	Reference P3/5 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	Access X3/3 (Street Plan Sheet No.3)	Access track to reservoir and adjacent field, 224 metres east of the existing junction of the C0110 to Millpool, from the southern boundary of the A30 Trunk Road to a point 23 metres south-eastwards over the width of the access.	Reference P3/9 (Street Plan Sheet No.3)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private Access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Private Access to be substituted</i>
Parish of Cardinham District of Lanivet and Blisland.	Access X3/4 (Street Plan Sheet No.3)	Field access, on the south side of the A30 Trunk Road, from reservoir access track X3/4, to a point 3 metres southwards over the width of the access.	Reference P3/4 (Street Plan Sheet No.3)
Parish of Blisland District of Lanivet and Blisland.	Access X3/5 (Street Plan Sheet No.3)	Field access, 85 metres to the east of property known as Lyndhurst, from the northern boundary of the A30 Trunk Road to a point 12 metres northwards over the width of the access.	Reference P3/7 and P3/8 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	Access X3/6 (Street Plan Sheet No.3)	Access to two adjacent fields south of the existing western junction of the U6139 and the A30 Trunk Road, from the southern boundary of the U6139 to a point 9m southwards over the width of the access.	Reference P3/10 and P3/11 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	Access X4/1 (Street Plan Sheet No.4)	Field access 165 metres east of the existing eastern junction of the U6139 from the southern boundary of the A30 Trunk Road to a point 6 metres southwards over the width of the access.	Reference P4/6, P4/7, P4/8 and P4/9 (Street Plan Sheet No.4)
Parish of Cardinham District of Lanivet and Blisland.	Access X4/2 (Street Plan Sheet No.4)	Field access 208 metres east of the existing eastern junction of the U6139 from the existing southern carriageway edge of the A30 Trunk Road to a point 30 metres southwards over the width of the access.	Reference P4/6, P4/7 and P4/11 (Street Plan Sheet No.4)



(1) Area	(2) Private Access to be stopped up	(3) Extent of stopping up	(4) Private Access to be substituted
Parish of Cardinham District of Lanivet and Blisland.	Access X4/3 (Street Plan Sheet No.4)	Field access 303 metres east of the existing eastern junction of the U6139 from the from the existing southern carriageway edge of the A30 Trunk Road to a point 24 metres southwards over the width of the access.	Reference P4/6, P4/7 and P4/11 (Street Plan Sheet No.4)
Parish of Blisland District of Lanivet and Blisland.	Access X5/1 (Street Plan Sheet No.5)	Field access 211 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access.	Reference P4/13 (Street Plan Sheet No.4)
Parish of Blisland District of Lanivet and Blisland.	Access X5/2 (Street Plan Sheet No.5)	Field access 242 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access.	Reference P4/13 (Street Plan Sheet No.4)
Parish of Blisland District of Lanivet and Blisland.	Access X5/3 (Street Plan Sheet No.5)	Field access 367 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access.	Reference P4/13 (Street Plan Sheet No.4)
Parishes of Cardinham District of Lanivet & Blisland.	Public Footpath 508/15 (Reference S6/1 – Street Plan Sheet No. 6)	From a point in the southern carriageway edge of the A30 Trunk Road 385 metres west of the junction to Temple Fisheries Picnic Site south- westwards for a distance of	Reference P6/3 (Street Plan Sheet No. 6)

(1) Area	(2) Private Access to be stopped up	(3) Extent of stopping up	(4) Private Access to be substituted
		approximately 21 metres along Footpath 508/15.	
Parish of Cardinham District of Lanivet and Blisland	Access X6/1 (Street Plan Sheet No.6)	Access 375 metres west of the existing junction to Temple Fisheries Picnic Site, from the southern boundary of the A30 Trunk Road to a point 15 metres south- eastwards over the width of the access.	Reference P 6/1 (Street Plan Sheet No.6)
Parish of Cardinham District of Lanivet and Blisland	Access X6/2 (Street Plan Sheet No.6)	Access 395 metres west of the existing junction to Temple Fisheries Picnic Site, from the northern boundary of the A30 Trunk Road to a point 3 metres northwards over the width of the access.	Reference P6/2 (Street Plan Sheet No. 6)
Parish of Blisland District of Lanivet and Blisland.	Access X7/1 (Street Plan Sheet No.7)	Access to the property known as Greenbarrow from the southern boundary of the A30 Trunk Road to a point 3 metres south-eastwards over the width of the access.	Reference P 7/1 (Street Plan Sheet No.7)
Parish of Cardinham District of Lanivet and Blisland	Access X8/1 (Street Plan Sheet No. 8)	Access 242 metres west of existing Temple Tor Junction from the southern boundary of the A30 Trunk Road to a point 7 metres south east over the width of the access.	Reference P8/2 (Street Plan Sheet No. 8)

## PART 3

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

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
In the County of Cornwall—		
Parishes of Cardinham District of Lanivet & Blisland.	Public Footpath 508/1 (Reference S2/1 – Street Plan Sheet No. 2)	From the southern boundary of the A30 Trunk Road 85 metres to the west of the western access to Darcroft Garage in a southerly direction for a distance of 22 metres.
Parishes of Blisland & Cardinham District of Lanivet & Blisland.	Part of the junction of the C0034 to Tresarrett and the northern edge of A30 Trunk Road (Reference S3/1 – Street Plan Sheet No. 3)	On the eastern side of the existing junction of the C0034 to Tresarrett, to the south of the property known as Four Winds at Preeze Cross, from a point 13 metres north of the existing northern carriageway edge of A30 Trunk Road southwards from the C0034 and then eastwards along the A30 for a total distance of 43 metres.
Parish of Blisland District of Lanivet & Blisland.	Public Footpath 503/16 (Reference S3/2 – Street Plan Sheet No. 3)	From the northern boundary of the A30 Trunk Road, approximately 375 metres east of the property known as Lyndhurst, in a southerly direction for a distance of 90 metres.
Parishes of Cardinham District of Lanivet & Blisland.	Public Footpath 508/14 (Reference S4/1 – Street Plan Sheet No. 4)	From a point in the southern carriageway edge of the A30 Trunk Road 224 metres to the south west of the junction of the U6131 to Waterloo on the northern side of the A30 for a distance of 23 metres in a south westerly direction.
Parish of Blisland District of Lanivet & Blisland.	Part of A30 Trunk Road (Reference S6/2 – Street Plan Sheet No. 6)	From a point on the southern boundary of the A30 Trunk Road 84 metres north east of the junction to the Temple Fisheries Picnic Site along the southern boundary of the A30 Trunk Road for a distance of 71 metres.

Parish of Blisland District of Lanivet & Blisland.	Unclassified road U6131 (Reference S8/3 – Street Plan Sheet No. 8)	From a point on the northern boundary of the A30 Trunk Road, approximately 195 metres west of the junction with the C0300, in a north- westerly direction along the cul-de-sac section of unclassified road U6131 for a distance of 32 metres.
---	--	--

## PART 4

### PRIVATE ACCESS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private Accesses to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
In the County of Cornwall—		
Parish of Blisland District of Lanivet & Blisland	Access X1/2 (Street Plan Sheet No. 2)	On the northern boundary of the A30 Trunk Road, 33 metres west of the western access to Penlan Garage, for a distance of 3 metres from the boundary north-westwards and over the width of the access.
Parish of Cardinham District of Lanivet & Blisland	Access X2/1 (Street Plan Sheet No. 2)	Access track leading to Higher Carblake (co-existent with public footpath 508/1) from the southern boundary of the A30 Trunk Road southwards for a distance of 31 metres over the width of the track.
Parish of Blisland District of Lanivet & Blisland	Access X7/2	On the northern boundary of the A30 Trunk Road, approximately 47 metres east of existing access to Greenbarrow onto the A30 Trunk Road, for a distance of 3 metres from the boundary northwards and over the width of the access.

## SCHEDULE 6

Article 14

### ACCESS TO AND FROM WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of Access</i>
In the County of Cornwall—	
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P1/1 (Street Plan Sheet No.1)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P1/2 (Street Plan Sheet No.1)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P1/3 (Street Plan Sheet No.1)
Parish of Blisland District of Lanivet and Blisland.	New private means of access. Reference P3/1 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P3/2 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P3/6 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P3/12 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P3/13 (Street Plan Sheet No.3)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P3/14 (Street Plan Sheet No.3)
Parishes of Blisland & Cardinham District of Lanivet and Blisland.	New private means of access. Reference P3/15 (Street Plan Sheet No.3)
Parishes of Blisland District of Lanivet and Blisland.	New private means of access. Reference P4/1 (Street Plan Sheet No.4)

Parishes of Blisland District of Lanivet and Blisland.	New private means of access. Reference P4/2 (Street Plan Sheet No.4)
Parishes of Blisland District of Lanivet and Blisland.	New private means of access. Reference P4/3 (Street Plan Sheet No.4)
Parishes of Blisland District of Lanivet and Blisland.	New private means of access. Reference P4/4 (Street Plan Sheet No.4)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P4/5 (Street Plan Sheet No.4)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P4/10 (Street Plan Sheet No.4)
Parish of Cardinham District of Lanivet and Blisland.	New private means of access. Reference P4/12 (Street Plan Sheet No.4)
Parish of Blisland District of Lanivet and Blisland.	New private means of access. Reference P7/2 (Street Plan Sheet No.7)
Parish of Blisland District of Lanivet and Blisland.	New private means of access. Reference P7/3 (Street Plan Sheet No.7)
Parish of Blisland District of Lanivet and Blisland.	New private means of access. Reference P7/4 (Street Plan Sheet No.7)
Parish of Blisland District of Lanivet and Blisland.	New private means of access. Reference P8/1 (Street Plan Sheet No.8)

---

## SCHEDULE 7

Article 28

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> Area	<i>(2)</i> Number of land shown on land plans	<i>(3)</i> Purposes for which temporary possession may be taken	<i>(4)</i> Relevant part of the authorised development
In the County of Cornwall	01/03, 01/14, 01/15, 01/16, 01/19, 01/20, 01/23, 01/24, 02/01, 02/04, 02/05, 02/11, 02/47, 02/48, 02/51, 02/53, 02/54, 03/04, 03/05, 03/13, 03/14, 04/03, 04/25, 04/26, 04/27, 04/45, 04/73, 05/01	Temporary working space	Work No. 1
	02/07, 04/18	Construction access, material and equipment storage and temporary working space	Work No. 1
	01/07, 01/09, 01/10, 01/13	Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space	Work No. 1 and 2
	02/34, 02/38	Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space	Work No. 1 and 3
	02/44, 03/01	Construction access, material and equipment storage and temporary working space	Work No. 1 and 3
	02/16, 03/09	Temporary working space	Work No. 1 and 3
	04/33	Works/site compound including storage of equipment, materials and soils, grass	Work No. 1 and 4

(1) Area	(2) Number of land shown on land plans	(3) Purposes for which temporary possession may be taken	(4) Relevant part of the authorised development
		cultivation areas and temporary working space	
	04/39, 04/41, 04/53, 04/68	Temporary working space	Work No. 1 and 4
	02/27	Temporary working space	Work No. 1 and 5
	02/24, 02/28, 02/33, 02/37	Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space	Work No. 1, 3 and 5
	02/17, 02/18, 02/19, 02/21, 02/23, 02/25, 02/32, 02/36, 02/40, 02/42, 02/43, 03/07	Temporary working space	Work No. 3
	04/28	Works/site compound including storage of equipment, materials and soils, grass cultivation areas, temporary working space and environmental mitigation areas	Work No. 4
	04/23, 04/30, 04/36, 04/38, 04/46, 04/47, 04/52, 04/54, 04/55, 04/56, 04/58, 04/60, 04/61, 04/62, 04/63, 04/64, 04/67,	Temporary working space	Work No. 4
	04/08, 04/10, 04/11, 04/13, 04/14, 04/15	Temporary working space	Work No. 5
	04/05	Temporary working space	Work No. 6



## DISCHARGE OF REQUIREMENTS

**Applications made under requirements**

1.—(1) Where an application has been made to the local planning authority for any consent, agreement or approval required by a requirement included in Schedule 2 (requirements), the local planning authority must give notice to the undertaker of its decision on the application within a period of 20 business days beginning with—

- (a) the first business day immediately following that on which the application is received by the local planning authority; or
- (b) such longer period as may be agreed by the undertaker and the local planning authority.

(2) Where an application has been made under sub-paragraph (1) the local planning authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the local planning authority considers that further information is necessary the local planning authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If notification is given under sub-paragraph (3) the undertaker must within 5 business days of receipt of the notification either—

- (a) supply the further information requested; or
- (b) provide an explanation as to why such a request for further information is unreasonable or cannot be provided.

(5) If the local planning authority does not give the notification mentioned in sub-paragraph (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior written agreement of the undertaker.

**Appeals**

2.—(1) The undertaker may appeal if—

- (a) the local planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the local planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;
- (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the local planning authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the local planning authority notifies the undertaker that the relevant information provided is inadequate and requests additional information which the undertaker considers is not necessary for the consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the local planning authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the local planning authority and the requirement consultee (if applicable);
- (c) as soon as is reasonably practicable after receiving the appeal documents the Secretary of State (or persons appointed by the Secretary of State for this purpose) must appoint a person to determine the appeal (“the appointed person”) and must forthwith notify the

appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person should be sent;

- (d) the local planning authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days of the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days of receipt of written representations under sub-paragraph (2)(d); and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

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

(4) Any further information required under sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information may be submitted to the appointed person and made available to all appeal parties within 10 business days of that date.

### **Outcome of appeals**

3.—(1) On an appeal under paragraph 2, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part or not);

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

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

(5) Any approval given by the appointed person under this Schedule is deemed to be an approval for the purposes of this Order as if it had been given by the local planning authority.

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

(7) On application by the local planning authority or the undertaker, the appointed person may give directions as to costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it.

## **Interpretation of Schedule 8**

4. In this schedule—

“the appeal parties” means the local planning authority, requirements consultee and the undertaker;

“business day” means Monday to Friday excluding bank holidays; and

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

## EXPLANATORY NOTE

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

This Order authorises the Cornwall Council (referred to in this Order as the undertaker) to improve the A30 Trunk Road by dualling a section of single carriageway between Temple and Higher Carblake, and carry out all associated works. The Order permits the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the improved highway.

A copy of the Order plans and book of reference mentioned in this Order and certified in accordance with Article 37 (certification of plans etc.) may be inspected free of charge during working hours at Cornwall Council, County Hall, Treyew Road, Truro, Cornwall, TR1 3AY.

---

© Crown copyright 2015

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.