

SCHEDULES

SCHEDULE 9

PROTECTIVE PROVISIONS

PART 4

FOR THE PROTECTION OF CAMBRIDGESHIRE COUNTY COUNCIL IN RESPECT OF ORDINARY WATERCOURSES

31. The following provisions of this Part of this Schedule apply for the protection of Cambridgeshire County Council unless otherwise agreed between the undertaker and Cambridgeshire County Council.

32. In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are to be construed accordingly;

“drainage work” means an ordinary watercourse and includes any land which is expected to provide flood storage capacity for an ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence in connection with an ordinary watercourse;

“key watercourse” means any of the following ordinary watercourses—

<i>Ordinary watercourse to be regarded as a key watercourse</i>	<i>Ordnance Survey coordinates of Ordinary watercourse to be regarded as a key watercourse</i>
OWC1	So much of the OWC1 watercourse as runs between points 521823, 268245 and 521853, 268440
OWC2	So much of the OWC2 watercourse as runs between points 522034, 268223 and 522083, 268400
OWC3	So much of the OWC3 watercourse as runs between points 523173, 268195 and 523156, 268160
	So much of the OWC3 watercourse as runs between points 522376, 267895 and 522295, 267882
	So much of the OWC3 watercourse as runs between points 522563, 268269 and 522310, 267885
HDC1	So much of the HDC1 watercourse as runs between points 524839, 267732 and 524869, 267958
HDC2	So much of the HDC2 watercourse as runs between points 526421, 267747 and 526441, 267795
	So much of the HDC2 watercourse as runs between points 527286, 267834 and 528717, 267789

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<i>Ordinary watercourse to be regarded as a key watercourse</i>	<i>Ordnance Survey coordinates of Ordinary watercourse to be regarded as a key watercourse</i>
	So much of the HDC2 watercourse as runs between points 528754, 267800 and 528784, 267806
	So much of the HDC2 watercourse as runs between points 528817, 267812 and 529001, 267780
	So much of the HDC2 watercourse as runs between points 529136, 267788 and 529526, 267749
HDC3	So much of the HDC3 watercourse as runs between points 530233, 267221 and 530794, 267996
OWC 4 / HDC4	So much of the OWC 4 / HDC4 watercourse as runs between points 530867, 267917 and 5530878, 267894
	So much of the OWC 4 / HDC4 watercourse as runs between points 531485, 267508 and 531533, 267479
SCDC Award Drain 233 / Oxholme Drain	So much of the SCDC Award Drain 233 / Oxholme Drain watercourse as runs between points 532513, 266823 and 533067, 267506
SCDC Award Drain 231	So much of the SCDC Award Drain 231 watercourse as runs between points 533091, 266751 and 533089, 266778
	So much of the SCDC Award Drain 231 watercourse as runs between points 533090, 266887 and 533466, 267276
OWC 5	The OWC 5 watercourse, running between points 533446, 267249 and 534468, 266572.
OWC 6	The OWC 6 watercourse, running between points 534453, 266520 and 535070, 266111
SCDC Award Drain 190	So much of the SCDC Award Drain 190 watercourse as runs between points 534801, 266355 and 534832, 266434
OWC 7	The OWC 7 watercourse, running between points 535318, 266022 and 534794, 266356
SCDC Award Drain 193	So much of the SCDC Award Drain 193 watercourse as runs between points 535750, 265690 and 535826, 265780
OWC 8	The OWC 8 watercourse, running between points 535807, 265549 and 537001, 264810
Utton's Drove Drain / SCDC Award Drain 194	So much of the Utton's Drove Drain / SCDC Award Drain 194 watercourse as runs between points 536441, 265028 and 536709, 265207
SCDC Award Drain 308	So much of the SCDC Award Drain 308 watercourse as runs between points 537364, 264658 and 537361, 264697

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<i>Ordinary watercourse to be regarded as a key watercourse</i>	<i>Ordnance Survey coordinates of Ordinary watercourse to be regarded as a key watercourse</i>
OWC 9	The OWC 9 watercourse, running between points 537097, 264733 and 537553, 264417
OWC 10	The OWC 10 watercourse, running between points 537000, 264899 and 538032, 264203
SCDC Award Drain 387	So much of the SCDC Award Drain 387 watercourse as runs between points 537612, 264523 and 537604, 264512
Longstanton Brook / SCDC Award Drain 188	So much of the Longstanton Brook / SCDC Award Drain 188 watercourse as runs between points 537955, 264159 and 538212, 264368
SCDC Award Drain 271	So much of the SCDC Award Drain 271 watercourse as runs between points 538431, 263920 and 538606, 264349
Oakington Brook	So much of the Oakington Brook watercourse as runs between points 538713, 263666 and 538757, 263702
OWC 11 / SCDC Award Drain 396	So much of the OWC 11 / SCDC Award Drain 396 watercourse as runs between points 539258, 263192 and 539412, 263341
OWC 12	The OWC 12 watercourse, running between points 540680, 262232 and 539733, 263041
SCDC Award Drain 170	So much of the SCDC Award Drain 170 watercourse as runs between points 539734, 262983 and 539987, 263165
SCDC Award Drain 357 (Beck Brook)	So much of the SCDC Award Drain 357 (Beck Brook) watercourse as runs between points 540136, 261997 and 540515, 262167
	So much of the SCDC Award Drain 357 (Beck Brook) watercourse as runs between points 540611, 262186 and 540647, 262195
SCDC Award Drain 244	So much of the SCDC Award Drain 244 watercourse as runs between points 540667, 261502 and 540780, 261746
	So much of the SCDC Award Drain 244 watercourse as runs between points 540796, 261835 and 540798, 261846
	So much of the SCDC Award Drain 244 watercourse as runs between points 540821, 261989 and 540824, 262007
OWC 13 / SCDC Award Drain 358	So much of the OWC 13 / SCDC Award Drain 358 watercourse as runs between points 540767, 260740 and 541352, 261447

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<i>Ordinary watercourse to be regarded as a key watercourse</i>	<i>Ordnance Survey coordinates of Ordinary watercourse to be regarded as a key watercourse</i>
SCDC Award Drain 245 / (Wash Pitt Brook)	So much of the SCDC Award Drain 245 / (Wash Pitt Brook watercourse as runs between points 541730, 261186 and 541579, 261527

and in each case includes any land or area which is being used or is expected to be used to provide temporary or permanent flood storage capacity or relief for the watercourse and any bank, wall, embankment or other structure, or any appliance constructed or used for land drainage or flood defence in connection with the watercourse;

“ordinary watercourse” has the same meaning as given in section 72 (interpretation) of the Land Drainage Act 1991(1);

“plans” includes sections, drawings, specifications and method statements; and

“specified work” means any of the following works carried out in relation to any ordinary watercourse—

- (a) erecting any mill dam, weir or other similar obstruction to the flow of the watercourse, or raising or otherwise altering any such obstruction;
- (b) erecting a culvert in the watercourse; or
- (c) altering a culvert in a manner that would be likely to affect the flow of the watercourse.

Key watercourses

33.—(1) Before beginning to construct any specified work in relation to a key watercourse, the undertaker must submit to Cambridgeshire County Council plans of the work, and such further particulars available to the undertaker as Cambridgeshire County Council may within 28 days of the submission of the plans reasonably require.

(2) Any such specified work in relation to a key watercourse must not be constructed except in accordance with such plans as may be approved in writing by Cambridgeshire County Council, or determined under paragraph 41.

(3) Any approval of Cambridgeshire County Council required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is to be deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval or where further particulars are submitted under sub-paragraph (1), within 2 months of the submission of those particulars; and
- (c) may be given subject to such reasonable requirements or conditions as Cambridgeshire County Council may make for the protection of any key watercourse or for the prevention of flooding.

34. The requirements or conditions which Cambridgeshire County Council may make under paragraph 33 include conditions requiring the undertaker at its own expense to construct such protective works (including any new works as well as alterations to existing works) as are reasonably necessary—

- (a) to safeguard any key watercourse against damage, or
- (b) to secure that the efficiency of any key watercourse for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

(1) 1991 c. 59.

by reason of the specified work in relation to a key watercourse.

35.—(1) Any specified work in relation to a key watercourse, and all protective works required by Cambridgeshire County Council under paragraph 33 must be constructed to the reasonable satisfaction of Cambridgeshire County Council and an officer of Cambridgeshire County Council is entitled on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(2) The undertaker must give to Cambridgeshire County Council not less than 14 days' notice of its intention to commence construction of any specified work in relation to a key watercourse and the undertaker must give to Cambridgeshire County Council notice of completion of a specified work in relation to a key watercourse not later than 7 days after the date on which it is brought into use.

(3) If any part of the works comprising a structure in, over or under a key watercourse is constructed otherwise than in accordance with the requirements of this Part of this Schedule, Cambridgeshire County Council may by notice require the undertaker at its own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and Cambridgeshire County Council in writing consents, such consent not to be unreasonably withheld) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as Cambridgeshire County Council reasonably requires.

(4) Subject to sub-paragraph (5) if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon the undertaker, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, Cambridgeshire County Council may execute the works specified in the notice and any expenditure reasonably incurred by it in so doing is to be recoverable from the undertaker.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, Cambridgeshire County Council must not, except in an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

General

36.—(1) From the commencement of the construction of any specified work until the date falling 12 months from the date of completion of the specified work ("the maintenance period"), the undertaker must maintain in good repair and condition and free from obstruction the drainage work which is situated within the limits of deviation for that specified work and on land held by the undertaker for the purposes or in connection with the specified work, whether the drainage work is constructed under this Order or is already in existence. Upon the expiry of the maintenance period, the drainage work must be maintained by the highway authority for the highway to which the specified work relates.

(2) If any such drainage work is not maintained to the reasonable satisfaction of Cambridgeshire County Council, it may by notice require the person liable for maintenance of the drainage work to maintain the drainage work, or any part of it, to such extent as Cambridgeshire County Council reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the person liable for maintenance, that person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, Cambridgeshire County Council may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the person liable for maintenance.

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(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2) Cambridgeshire County Council must not except in a case of emergency exercise the powers of sub-paragraph (3) until the dispute has been finally determined.

37. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any ordinary watercourse for flood defence purposes is impaired, or that watercourse is otherwise damaged, so as to require remedial action, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of Cambridgeshire County Council and if the undertaker fails to do so, Cambridgeshire County Council may make good the same and recover from the undertaker the expense reasonably incurred by it in doing so.

38.—(1) The undertaker must indemnify Cambridgeshire County Council in respect of all costs, charges and expenses which it may reasonably incur or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule; and
- (b) in the inspection of the construction of a specified work in respect of a key watercourse or any protective works required by Cambridgeshire County Council under this Part of this Schedule.

(2) The maximum amount payable to Cambridgeshire County Council under sub-paragraph (1)(a) or (b) is to be the same as would have been payable to Cambridgeshire County Council in accordance with the scale of charges for pre-application advice and land drainage consent applications published on Cambridgeshire County Council's website from time to time.

39.—(1) Without prejudice to the other provisions of this Part of this Schedule, the undertaker must indemnify Cambridgeshire County Council from all claims, demands, proceedings or damages, which may be made or taken against, or recovered from Cambridgeshire County Council by reason of—

- (a) any damage to any ordinary watercourse so as to impair its efficiency for flood defence purposes,
- (b) any raising or lowering of the water table in land adjoining the works authorised by this Order or adjoining any sewers, drains and watercourses, or
- (c) any flooding or increased flooding of any such lands,

which is caused by, or results from, the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work.

(2) Cambridgeshire County Council must give to the undertaker reasonable notice of any such claim or demand and no settlement or compromise of any such claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

40. The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to have been approved by Cambridgeshire County Council, or to its satisfaction, does not (in the absence of negligence on the part of Cambridgeshire County Council, its officers, contractors or agents) relieve the undertaker from any liability under the provisions of this Part of this Schedule.

41. Any dispute arising between the undertaker and Cambridgeshire County Council under this Part of this Schedule is to be determined by arbitration.