

SCHEDULES

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1.—(1) In this Schedule—

“bank or public holiday” means Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971⁽¹⁾;

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990⁽²⁾;

“CEMP” means the construction environmental management plan;

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017⁽³⁾;

“HEMP” means the handover environmental management plan;

“lead local flood authority” has the same meaning as in the Flood and Water Management Act 2010⁽⁴⁾;

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

“Natural England” means the body created by the Natural Environment and Rural Communities Act 2006⁽⁶⁾ or any successor in function to it;

“OEMP” means the outline environmental management plan submitted with the application for this Order and certified as the OEMP by the Secretary of State for the purposes of this Order; and

“REAC” means the record of environmental actions and commitments (contained in the OEMP).

(2) With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes or plans approved under this Schedule, the approved

(1) 1971 c. 80.

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

(3) S.I. 2017/1012.

(4) 2010 c. 29.

(5) 1981 c. 69.

(6) 2006 c. 16.

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details or schemes or plans are taken to include any amendments that may subsequently be approved in writing.

Time limits

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

Detailed design

3.—(1) The authorised development must be designed in detail and carried out in accordance with the preliminary scheme design shown on the works plans and engineering drawings and sections unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and the relevant local highway authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to the works plans and engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

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

Construction and handover environmental management plans

4.—(1) No part of the authorised development is to commence until a CEMP, substantially in accordance with the OEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and, to the extent that it relates to a matter relevant to its function, the relevant local highway authority, Natural England and the Environment Agency.

(2) The CEMP must be written in accordance with ISO14001 and must—

- (a) reflect the mitigation measures set out in the REAC;
- (b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;
- (c) require adherence to working hours of 07:00–19:00 on Mondays to Fridays and 08:00–16:00 on Saturday with no working on Sundays and bank or public holidays except for—
 - (i) 24 hours a day 7 days a week working to carry out the works at the M54 Junction 1 for a period of up to 3 weeks whilst the motorway is closed;
 - (ii) deliveries, movements to work, maintenance and general preparation works but not including running plant and machinery for a period of one hour either side of the above times;
 - (iii) night-time closures for road crossings and final surfacing tie-ins, and bridge demolition and installation;
 - (iv) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
 - (v) junction works;
 - (vi) repair or maintenance of construction equipment;
 - (vii) removal of overhead power lines;

- (viii) overnight traffic management measures;
 - (ix) works associated with traffic management and signal changes;
 - (x) cases of emergency; and
 - (xi) as otherwise agreed by the local authority in advance;
- (d) include the following management plans—
- (i) Biosecurity Management Plan;
 - (ii) Site Waste Management Plan;
 - (iii) Emergency Preparedness and Response Plan;
 - (iv) Archaeological Management Plan;
 - (v) Archaeological Mitigation Strategy;
 - (vi) Arboricultural Mitigation Strategy;
 - (vii) Fire Rescue and Translocation Strategy;
 - (viii) Landscape and Ecology Management Plan;
 - (ix) Noise and Vibration Management Plan;
 - (x) Soil Management Strategy (including a Soil Management Plan and Soil Handling Strategy);
 - (xi) Materials Management Plan;
 - (xii) Asbestos Management Plan;
 - (xiii) Water Management Plan; and
 - (xiv) Traffic Management Plan (including a Site Access Plan, Site Travel Plan and Construction Workforce Travel Plan).
- (3) The construction of the authorised development must be carried out in accordance with the approved CEMP.
- (4) A HEMP must be developed and completed by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved CEMP.
- (5) The HEMP must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the authorised development, and must contain—
- (a) the environmental information needed for the future maintenance and operation of the authorised development;
 - (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
 - (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.
- (6) The authorised development must be operated and maintained in accordance with the HEMP.

Landscaping

5.—(1) The authorised development must be landscaped in accordance with a landscaping scheme which sets out details of all proposed hard and soft landscaping works and which has been

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

(2) The landscaping scheme must reflect the mitigation measures set out in the REAC and must be based on the illustrative environmental masterplan annexed to the environmental statement.

- (3) The landscaping scheme prepared under sub-paragraph (1) must include details of—
- (a) location, number, species mix, size and planting density of any proposed planting;
 - (b) cultivation, importing of materials and other operations to ensure plant establishment;
 - (c) existing trees to be retained, with measures for their protection during the construction period;
 - (d) proposed finished ground levels; and
 - (e) implementation timetables for all landscaping works.

(4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

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

Contaminated land and groundwater

6.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.

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

Protected species

7.—(1) No part of the authorised development is to commence until for that part final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by any part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present;

- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph,

the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State.

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

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

Surface and foul water drainage

8.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation with the relevant lead local flood authority and the Environment Agency on matters related to their functions.

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

Archaeological remains

9.—(1) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported by way of a notice to the relevant planning authority as soon as reasonably practicable from the date they are identified.

(2) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (1) for a period of 14 days from the date of any notice served under sub-paragraph (1) unless otherwise agreed in writing by the relevant planning authority.

(3) If the relevant planning authority determines in writing 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 further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority.

Fencing

10. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the OEMP except where any departures from the OEMP are agreed in writing by the Secretary of State in connection with the authorised development.

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Signage to Saredon Filling Station

11. No part of the authorised development constituting Work No. 36 is to commence unless the undertaker has first consulted with the local highway authority and the proprietors of the Saredon Filling Station regarding a scheme for the signage regarding that Work. The written details regarding Work No. 36 must be submitted and approved in writing by the Secretary of State and must include provision of directional signage to the Saredon Filling Station and the approved signage must be installed in full in accordance with the approved details before the new M6 Junction 11 circulatory carriageway is open for traffic.

Weight Restriction Warning Signs

12. Before the authorised development is open for traffic, two warning signs, of the type shown in diagram 818.4 (S12-28-22) as shown in Figure 5-3 of Chapter 3 of the Traffic Signs Manual (Regulatory Signs 2019 Edition) (or any equivalent sign in a subsequent edition) must be installed at the junction of Cannock Road with the Featherston Junction west roundabout and at the junction of Cannock Road with the new M6 Junction 11 circulatory carriageway indicating warning of the weight restriction imposed by article 11(9) (classification of roads etc.) and those signs are to be maintained by the undertaker unless otherwise agreed in writing between the parties.

Details of consultation

13.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the undertaker must provide that other party with not less than 14 days for any response to the consultation and the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub-paragraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

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

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- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 15 (further information); or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraphs (3) and (4), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification at the end of that period).

(3) Where the Secretary of State requests further information pursuant to paragraph 15, and no further information has been submitted eight weeks from that day immediately following that on which the application was received by the Secretary of State, the application or (if applicable) the part of the application to which the request for further information relates is taken to have been refused by the Secretary of State.

(4) Where—

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

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

Further information

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

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

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as a separate application from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 14 (applications made under requirements) and in this paragraph.

(4) In this paragraph, “business day” means a day other than Saturday, Sunday or bank or public holiday.

Anticipatory steps towards compliance with any requirement

16. If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part I of this

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Schedule, those steps may be taken into account for the purpose of determining compliance with that provisions if they would have been valid steps for that purpose had they been taken after this Order came into force.