



NORTHAMPTON  
**GATEWAY**  
STRATEGIC RAIL FREIGHT INTERCHANGE

## DRAFT EXPLANATORY MEMORANDUM

### DOCUMENT 3.2

The Northampton Gateway Rail Freight Interchange Order 201X

Regulation No: 5 (2) (c)

DRAFT EXPLANATORY MEMORANDUM | OCTOBER 2017

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ROXHILL

**THE NORTHAMPTON GATEWAY RAIL FREIGHT INTERCHANGE  
ORDER 201X**

**DRAFT EXPLANATORY MEMORANDUM  
October 2017**

**Pursuant to Regulation 5(2)(c) Infrastructure Planning  
(Applications: Prescribed Forms and Procedure) Regulations 2009**

**DOCUMENT 3.2**

## EXPLANATORY MEMORANDUM

### Contents

Section	Page
1. Introduction	3
2. The Purpose of the Order	3
3. Location of the development to be authorised	6
4. Plans	6
5. Summary of the Works	8
6. The Assessment Parameters	11
7. The Draft Order	12
- Preliminary	
- Principal Powers	
- Streets	
- Supplemental Powers	
- Powers of Acquisition	
- Miscellaneous and General	
- Schedules	
- Development Consent Obligations	

## **1. Introduction**

- 1.1 This memorandum accompanies an application for a development consent order (“the Application”) submitted on behalf of Roxhill (Junction 15) Limited (“the Applicant”). The Application seeks approval of the Draft Northampton Gateway Rail Freight Interchange Order 201X (“the DCO”).
- 1.2 As required by Regulation 5(2)(c) Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, as amended, (“the Regulations”), this memorandum explains the purpose and the effect of provisions in the draft Order. It has been prepared taking into account the guidance set out in the Advice Note 13: Preparing the Draft Order and Explanatory Memorandum (April 2012).
- 1.3 The Applicant is Roxhill (Junction 15) Limited, a special purpose vehicle set up to promote and develop the development applied for. Roxhill (Junction 15) Limited is a joint venture company owned in equal shares by Roxhill Developments Holdings Limited (itself being a wholly owned subsidiary of Roxhill Developments Group Limited) and SEGRO Properties Limited, a wholly owned subsidiary of SEGRO PLC, a FTSE 100 company.
- 1.4 This Explanatory Memorandum relates to the draft DCO submitted to the Planning Inspectorate with the application for a Development Consent Order (Document 3.1).

## **2. The Purpose of the Order**

### *NSIP Criteria*

- 2.1 Section 14 of the Planning Act 2008 (as amended) (“the 2008 Act”) sets out the type of projects that are classified as nationally significant infrastructure projects (“NSIP”). Section 14(1)(l) of the 2008 Act refers to “the construction or alteration of a rail freight interchange”.
- 2.2 Section 26 of the 2008 Act sets out the conditions which must be satisfied for the construction of a rail freight interchange to be classified as an NSIP. Section 26(1) advises that a rail freight interchange will only be treated as an NSIP when each of the conditions set out in subsections (3) to (7) are expected to be met.
- 2.3 The authorised development accords with these conditions as the proposed development includes the construction of a new rail freight interchange that will:

- 1) be situated in England and be at least 60 hectares in area (section 26(3)(a) and (b));
- 2) be capable of handling consignments of goods from more than one consignor and to more than one consignee and at least four goods trains per day (section 26(4)(a) and (b));
- 3) be part of the railway network in England (section 26(5));
- 4) include warehouses to which goods can be delivered from the railway network in England either directly or by means of another form of transport (section 26(6)); and
- 5) not be part of a military establishment (section 26(7)).

2.4 The proposed development therefore falls within the definition of a rail freight interchange NSIP as set out in the 2008 Act. The purpose of the order is therefore to authorise the construction and use of the NSIP.

*Scope of the proposed development*

2.5 The DCO sought will permit, in summary, the following works:-

- i) An intermodal freight terminal including container storage and HGV parking, rail sidings to serve individual warehouses, and with the capability to also provide a 'rapid rail freight' facility as part of the intermodal freight terminal;
- ii) Up to 468,000 sq m (approximately 5 million sq ft) (gross internal area) of warehousing and ancillary buildings, with additional floorspace provided in the form of mezzanines;
- iii) New road infrastructure and works to the existing road network, including the provision of a new access and associated works to the A508, a new bypass to the village of Roade, improvements to Junction 15 and to Junction 15A of the M1 motorway, the A45 and other highway improvements to at junctions on the local highway network;
- iv) Strategic landscaping and tree planting, including diverted public rights of way; and
- v) Earthworks and demolition of existing structures on the SRFI site.

- 2.6 The proposed development is more fully described in Schedule 1 of the draft DCO (Document 3.1) and in the other application documentation, in particular Chapter 2 of the Environmental Statement (Document 5.2).
- 2.7 The draft DCO also authorises associated development (see paragraph 2.8 below). Provision for ancillary matters is made in the body of the draft DCO (see paragraph 2.10 below).

#### *Associated Development*

- 2.8 The draft DCO specifically authorises development which is not part of the NSIP itself but is associated with it as provided for by section 115(2) of the Act. This comprises Works No.s 7 to 16. These aspects of the authorised development are considered to be associated development as they each are “*typical of development brought forward*” with the NSIP or “*help address its impacts*”. They are “*not an aim in itself*” but are “*subordinate to the principal development*”<sup>1</sup>.
- 2.9 In this application the associated development principally comprises highway mitigation measures. The individual works are described in Section 5.

#### *Ancillary Matters*

- 2.10 The draft DCO also deals with some ancillary matters – that is, provisions not dealing with development.
- 2.11 For example, it seeks powers for the purposes of carrying out the authorised development to acquire rights and land pursuant to section 120 of the Act and powers, under section 120 (3) and (4) and Part 1 of Schedule 5, paragraph 2, to authorise the creation, extinguishment and interference with interests in, or rights over, land (including the stopping up and diversion of public rights of way).
- 2.12 The compulsory purchase powers sought are explained within the Statement of Reasons (Document 4.1).

#### *Development Consent Obligations*

- 2.13 [*It is anticipated that there will be s.106 obligations relating to sustainable transport, local employment and the provision of the rail infrastructure – these are*

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<sup>1</sup> See paragraph 5(ii) Guidance on associated development applications for major infrastructure projects April 2013

*currently under consideration and will be the subject of discussion with the local planning authorities].*

### **3. Location of the development to be authorised**

- 3.1 The Application principally relates to land immediately to the west of the M1 motorway at Junction 15 and east of the Northampton Loop railway line. The location of the site can be seen on the Location Plan (Document 2.12).
- 3.2 The site for the rail freight terminal, warehouses, related infrastructure and landscaping is identified as the 'main site' in the Order and comprises the works areas for Works No.s 1 to 5. In addition there are highway mitigation works which are shown on the Key Plan and Highway Mitigation Overview (Document 2.4). These works include the site access off the A508, works to Junction 15A and 15 of the M1, a bypass for Roade and various other junction improvements. These are all identified on the Works Plans (Documents 2.2A – F). The 'highway works' are defined in the draft Order as Works Nos. 6 to 8 and 10 to 16.
- 3.3 The land affected by the proposed development is referred to in the draft DCO as the 'Order limits'. The Order limits comprise approximately 290 hectares of land, of which the main site comprises approximately 210.
- 3.4 The main site, Roade Bypass and some highway works are within the administrative areas of South Northamptonshire District Council and Northamptonshire County Council. The remaining areas of the Order limits are within the administrative areas of Northampton Borough Council and Northamptonshire County Council. Administrative boundaries are shown on the Location Plan (Document 2.12).

### **4. Plans**

- 4.1 The plans submitted with the Application are as follows:
- i) A **Location Plan** enabling the identification of the site and the administrative boundaries (Document 2.12);
  - ii) **Land Plans** (pursuant to Regulation 5(2)(i) - Documents 2.1A - G) showing the land affected by the development and the land subject to compulsory purchase powers.
  - iii) **Works Plans** (pursuant to Regulation 5(2)(j) - Documents 2.2A - F) identifying the areas for the different works which are

referred to in Schedule 1 in the Draft DCO (Document 3.1) and, where appropriate, show limits of deviation.

- iv) **Access and Rights of Way Plans** (pursuant to Regulation 5(2)(k) - Documents 2.3A - F) which identify new and altered means of access, stopping up of streets and roads, new and diverted public footpaths, bridleways and cycle tracks.
- v) **Parameters Plan** (pursuant to regulation 5(2)(o) - Documents 2.10) which identifies the parameters with which the Works must comply. The parameters plan is the plan upon which the environmental assessment reflected in the Environmental Statement has been based. The approach taken by the parameters plan is described in more detail in section 6 below.
- vi) **Highway Plans** (pursuant to Regulation 5(2)(o) – Documents 2.4A - N). These describe the various elements of the highway mitigation on plan and also, where felt helpful, in cross section. The key plan (Document 2.4) is also intended to provide a useful overview of the entirety of the development and mitigation.
- vii) **Highway Classification Plans, Traffic Regulation Plans and Speed Limit Plans** (Documents 2.5, 2.6 and 2.7). These plans deal with the consequential changes to the regulation of the highways as a result of the highway works. They are cross referred to in the schedules in the Draft DCO specifically dealing with those measures.
- viii) **Rail Plans** - (pursuant to Regulation 5(2)(o) – Documents 2.8 and 2.9A - E). These plans illustrate the rail infrastructure for which authority is sought and the rail terminal along with the potential expansion of the terminal.
- ix) An **Illustrative Masterplan** (Document 2.11), is also provided to assist in demonstrating a form of development of the main site which would comply with the parameters which have been assessed (as shown on the Parameters Plan). It is not the basis for the environmental assessment reflected in the Environmental Statement and it identifies simply one way in which a development may come forward in conformity with the Parameters Plan.



## 5. Summary of the Works

- 5.1 The authorised development is divided up into separate works that describe the different aspects of the proposal. The works numbers relate to areas shown on the Works Plans (Documents 2.2A - F).
- 5.2 The site for the rail freight terminal, warehouses, related on site infrastructure (including landscaping) and site access comprises Works No.s 1 to 6. Additional land is required for associated development, comprising principally off site highway works, being Works No.s 7 to 16.
- 5.3 The detail of the works are set out in Schedule 1 of the Draft DCO and can be further summarised as follows:

### ***NSIP***

#### **Works No 1**

This is the new rail infrastructure works from the existing Northampton Loop line to connect to the new rail terminal to be provided in Works No 2. This includes the alteration of some of the existing rail track and the provision of additional rail infrastructure.

#### **Works No 2**

This is the construction of the new rail freight terminal and rail tracks to connect with Works No 1. It includes the provision of freight storage areas, rail sidings, refuelling and maintenance areas, earthworks and other administrative buildings etc.

#### **Works No 3**

This is the construction of the rail served warehousing along with development such as ancillary buildings, service yards, storage areas and infrastructure to serve. It also provides for rail infrastructure for rail connected units within Zones 2- 4 as shown on the parameters plan.

#### **Works No 4**

This comprises the principal road infrastructure on the main site including internal estate (private) roads, footpaths and cycle tracks, vehicle lay-bys and bus stops.

#### **Works No 5**

This comprises structural landscaping surrounding the built development on the main site including earthworks, bunding, flood alleviation and surface water attenuation, boundary treatments and habitat creation. It also provides for the

continuing agricultural use of some of the land within the main structural landscaping area.

### **Works No 6**

This comprises works to create a roundabout access to the main site off the A508 along with the dualling of a length of the A508 between the access to the main site and Junction 15 of the M1 motorway. The general arrangement of these works is shown on Document 2.4B.

### ***Associated development***

#### **Works No 7**

These works relate to roads under the jurisdiction of Highways England and comprise works to J15 of the M1 motorway to improve the function of that junction and improvement works to the A45 northwards towards Northampton. The general arrangement of these works is shown on Document 2.4B.

#### **Works No 8**

These comprise works to Saxon Avenue and Watering Lane including the interface with Works No 7. The general arrangement of these works is shown on Document 2.4B.

#### **Work No 9**

These works involve the construction of new sewers and improvements and alterations to existing sewers required to accommodate the end of the foul drainage outfall / rising main from the main site.

#### **Works No 10**

These are works to improve the function of J15A of the M1 motorway which is under the jurisdiction of Highways England. The general arrangement of these works is shown on Document 2.4F.

#### **Works No 11**

These are works to deal with movements at the junction between the A508 and Blisworth Road intended both to address an existing difficulty with turning movements at the junction and to address the impact of the development traffic. The general arrangement of these works is shown on Document 2.4C.

#### **Works No 12**

Works No 12 comprises works to create a Road Bypass connecting the A508 Northampton Road to the A508 Stratford Road via land to the north of Road including a bridge over the railway line, roundabout junctions at each end of the bypass and at the junction with Blisworth Road and associated landscaping and

related works. The general arrangement of these works is shown on Documents 2.4C and 2.4D.

### **Works No 13**

These works comprise the improvement of the junction between the A508 and C26 near Stoke Bruerne. The works comprise the realignment of the A508 and provision of ghost island right turn junctions between the A508 and C26 Rookery Lane and the A508 and C26 Ashton Road. The general arrangement of these works is shown on Document 2.4E.

### **Works No 14**

These works involve the improvement of the A508 at its junction with the C85 Pury Road involving the provision of a ghost island and right turn lane. The general arrangement of these works is shown on Document 2.4F.

### **Works No 15**

These works comprise improvements to the junction of Knock Lane and C27 Stoke Road. The general arrangement of these works is shown on Document 2.4F.

### **Works No 16**

These works comprise the provision of a pedestrian refuge on the A508, alteration to lay-by provision and a ghost island right turn junction at Church Lane. The general arrangement of these works is shown on Document 2.4F.

- 5.4 Schedule 1 also includes “**Further Works**” being diverse items the precise locations of which it is not possible to identify at this stage<sup>2</sup>.
- 5.5 These works have been divided into three separate sections of further works. These apply additional, further, works to firstly, Works Nos. 1 to 4 being the rail infrastructure, rail terminal, warehouses and on site road infrastructure; secondly, Works Nos. 1 to 5, being the above and the landscaping on the main site, and, thirdly, Works Nos. 6 to 8 and 10 to 16, being the highway mitigation works.
- 5.6 All the “Further Works” are subject to the provisos contained in the schedule that they do not give rise to any new or materially worse significant environmental effects not assessed in the environmental statement.

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<sup>2</sup> This approach is consistent with other approved DCO eg. The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 S.I. 2013 675), The Daventry International Rail Freight Interchange Order S.I. 2014 1796 and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. 17.

## 6. The Assessment Parameters

- 6.1 The parameters plan (Document 2.10) is the plan which identifies the parameters of the authorised development on the main site and is the basis of the environmental assessment that has been carried out.
- 6.2 The parameters plan identifies the parameters that apply to each development zone. In addition to identifying the spatial extent of each use, the plan sets out the maximum zone floorspace, maximum overall floorspace, the finished floor levels and building height range and the provision of bunding. The extent of the structural green infrastructure to be provided is also identified. These provide the “Rochdale Envelope” for the purposes of the environmental assessment of the development on the site. This is in line with Advice Note 9 “Using the Rochdale Envelope”.
- 6.3 The control of the development is secured by reference to:
- articles 4 (*Parameters of authorised development*) and 43. (*Governance of requirements and protective provisions relating to highway works*);
  - the description of the works in Schedule 1;
  - the requirements in Schedule 2; and
  - the parameters on the parameters plan and the limits of deviation shown on the Works Plans.
- 6.4 Details over and above those shown on the parameters plan, including, for example, the precise location and height of buildings within the development zones; the detailed design of the rail infrastructure; detailed landscaping scheme and ecological mitigation details, are to be approved following the grant of the DCO and following the submission of details to the local planning authority pursuant to the requirements contained in Schedule 2 of the DCO.
- 6.5 In the case of highway works comprised in Works Nos. 6 to 8 and 10 to 16, the detailed working drawings of the works involved will be governed by Parts 2 and 3 of Schedule 15. Those designs are required to be in accordance with the Highways Plans – General Arrangements (Documents 2.4A – F).
- 6.6 The approved details cannot however stray outside the authorised development or beyond the parameters, as is made clear by articles 4 and 43. The approval of details subsequent to the making of the Order, and the ability to change details approved, as provided for in Article 43(2), is in accordance with paragraph 19.4 of Advice Notice 15: Drafting Development Consent Orders.

## 7. The Draft Order

7.1 This section of the memorandum explains the provisions of the draft Order as submitted to the Planning Inspectorate with the Application (Document 3.1). It refers to the model provisions, however, there are substantive departures from those provisions in view of the revocation of Section 38(3) of the Act 2008 and repeal of the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. The model provisions are therefore taken only as a starting point along with articles used in other approved Development Consent Orders. In particular regard has been had to The Daventry International Rail Freight Interchange Alteration Order 2014<sup>3</sup>, and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016<sup>4</sup> and The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016<sup>5</sup>.

### ***PART 1***

#### ***PRELIMINARY***

##### *Article 1 (Citation and commencement)*

7.2 This article provides for citation and commencement of the Order.

##### *Article 2 (Interpretation)*

7.3 This article provides for the interpretation of the Order, principally including the definition of terms. It includes the matters listed in the model provisions to be defined along with additional definitions to facilitate the drafting.

7.4 The terms “relevant highway authority” and “relevant street authority” have both been included as defined terms as, whilst some articles apply only to public highways (e.g. article 12 public rights of way – creation, diversion and stopping up) and therefore refer to the highway authority, the term street authority is also needed, as some articles apply to private streets such as those to be provided on the main site (e.g. article 9 power to alter layout, etc., of streets).

7.5 Other definitions to note are:

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<sup>3</sup> S.I. 2014 1796  
<sup>4</sup> S.I. 2016 17  
<sup>5</sup> SI 2016 547

- i) “authorised development” has been amended to include any works carried out pursuant to the requirements.
  - ii) “the Order limits” has been amended for clarity by describing how they are represented on the works plans.
  - iii) The definition of “undertaker” has been amended as permitted by section 156(2) of the Act to expressly refer to Roxhill (Junction 15) Limited and includes those persons who have the benefit of the Order in accordance with Section 156 of the Planning Act 2008. Article 7 restricts the benefit of the order in certain respects to the Roxhill (Junction 15) Limited only.
  - iv) The definition of works plans and land plans have been amended to reflect there being multiple sheets for these plans submitted in respect of the application and the “rights plan” has been renamed the “access and rights of way plans” to better reflect the information shown on this plan and the wording used in Regulation 5(2)(k) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
  - v) Definitions of the ‘main site’ and ‘highway works’ have been added to facilitate the drafting of the separate provisions relating to those elements of the development.
- 7.6 Article 2 (2) expands the definition of rights over land and clarifies that the power to impose restrictive covenants includes a reference to the creation of rights over land which interfere with the interests or rights of another.
- 7.7 Article 2 (3) makes it clear that measurements are approximate to take account of marginal differences arising out of construction of the works. This allows only small tolerances since the works are still subject to the constraints imposed by Articles 4 and 43. This provision is normal and most recently was included in the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016<sup>6</sup> and The Keuper Gas Underground Storage Facility Order 2017<sup>7</sup>.
- 7.8 Article 2 (4) ties in references to work numbers to the works in Schedule 1.

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<sup>6</sup> S.I. 2016 No. 547

<sup>7</sup> S.I. 2017 No. 433

- 7.9 Article 2 (5) provides that areas referred to in the Book of Reference (Document 4.3) are approximate – for the same reason as Article 2 (3) is required.
- 7.10 Article 2 (6) clarifies that, where the word approximate is used prior to a quantum, that does not enable the ability to go beyond the parameters and works that have not been assessed.

## **PART 2**

### **PRINCIPAL POWERS**

#### *Article 3 (Development consent granted by the Order)*

- 7.11 This article provides development consent for the authorised development to be carried out within the Order limits subject to the provisions of the Order. It also allows for some preparatory works to proceed in advance of the rest of the authorised development.

#### *Article 4 (Parameters of authorised development)*

- 7.12 This article is included to allow flexibility for the works to be carried out within the parameters identified on the parameters plan. The parameters identified on the parameters plan have been used for the purposes of environmental assessment of the authorised development.
- 7.13 As explained above, this approach is in line with the Rochdale Envelope approach and the guidance set out in Planning Inspectorate's Advice Notes 9 and 15.
- 7.14 The article also provides for limits of deviation as shown on the Works Plans and limited flexibility between boundaries between the Works areas. This is consistent with The East Midlands Gateway Rail Freight Interchange and Highway Order 2016.<sup>8</sup>
- 7.15 As in recent orders, the article allows for exceptions to the application of the limits where the local planning authority are satisfied that it would not result in any materially new or materially worse environmental effects than those assessed in the environmental statement<sup>9</sup>. This approach was the subject of specific consideration during the Examination into the DCO for the A14 Cambridge to Huntingdon Improvement Scheme and the specific drafting of this provision was

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<sup>8</sup> SI 2016 17

<sup>9</sup> For example Article 7 The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016

discussed and altered, as a result of which the Examining Authority made a specific finding that the proposed article was acceptable.<sup>10</sup>

*Article 5 (Authorisation of Use)*

- 7.16 This article authorises the operation and use of the RFI development and ensures that the concept of ancillary uses applies to the warehousing built pursuant to the DCO as it would had the warehousing been built pursuant to a planning permission. The Article includes confirmation that the development of the RFI and warehousing may be used for the purposes for which it is designed. This follows the approach taken in Thames Tideway Tunnel, Article 4<sup>11</sup>.

*Article 6 (Maintenance of authorised development)*

- 7.17 This article is based upon article 3 of the model provisions and provides for the maintenance of the authorised development by the undertaker. The definition of maintenance is identical to that contained in the recently approved East Midlands Gateway Rail Freight Interchange and Highway Order 2016<sup>12</sup> except that a caveat in respect of works which would result in a likely significant environmental effect which had not been assessed has been deleted from the definition and is instead in Article 6(2). This follows the advice in Advice Note 15: Drafting Development Consent Orders<sup>13</sup> to the effect that operative provisions should not be contained in definitions (paragraph 6.1).

*Article 7 (Benefit of the Order)*

- 7.18 The Order will benefit all persons for the time being interested in the land within the Order limits in accordance with Section 156 of the 2008 Act, except that:
- (a) articles 23 to 36 (Powers of Acquisition) will be for the sole benefit of Roxhill (Junction 15) Limited to ensure that the articles relating to the exercise of compulsory acquisition powers cannot be transferred unless the Secretary of State consents; and
  - (b) only Roxhill (Junction 15) Limited have the power to carry out the highway works and deliver them in accordance with the

<sup>10</sup> See paragraphs 8.2.15 to 8.2.21 of Examining Authority's Report.

<sup>11</sup> The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 SI 2016 2384

<sup>12</sup> S.I. 2016 17

<sup>13</sup> The Planning Inspectorate, Version 1 (October 2014)



protective provisions in Parts 2 and 3 of Schedule 15 unless the Secretary of State consents to a transfer of those powers.

- 7.19 In respect of (b) above, it is felt that the power to carry out the highway works should be restricted to the named undertaker rather than be available to all the owners of the land interests within the Order limits to ensure an orderly and comprehensive approach to the carrying out of the works.

### **PART 3**

#### **STREETS**

##### *Article 8 (Street works)*

- 7.20 This article is broadly based on article 8 of the general model provisions. It makes provision for the undertaker to carry out the works described in article 8 (a) – (j) for the purposes of the authorised development affecting the streets specified in Schedule 3. Ordinarily the undertaker would require a street works licence pursuant to the New Roads and Street Works Act 1991 to carry out such works, however, the inclusion of this article in the Order will provide a statutory right to undertake street works within the specified streets without the need for the undertaker to obtain a separate licence from the street authority.

##### *Article 9 (Power to alter layout, etc., of streets)*

- 7.21 This article is not contained in the model provisions but is based upon one that has precedent in other draft Development Consent Orders, for example the Heysham to M6 Link Road Order<sup>14</sup>, North Doncaster Chord Order<sup>15</sup> and the recently approved Keuper Underground Gas Storage Facility Order<sup>16</sup>.

- 7.22 This article is confined to the roads which will be maintained as private roads. Any alteration to those roads, although private, will still require the consent of the local highway authority who will be concerned to ensure that the arrangement of streets within the main site is acceptable.

##### *Article 10 (Permanent stopping up of streets)*

- 7.23 This article makes provision for the stopping up of streets permanently where a substitute is to be provided. The drafting of this article largely reflects that of article

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<sup>14</sup> The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 S.I. 2013 675

<sup>15</sup> The Network Rail (North Doncaster Chord) Order 2012 S.I. 2635

<sup>16</sup> 2017 S.I. No. 433

9 in the model provisions and Schedule 4 of the Order has been completed to identify the lengths of street that are to be permanently stopped up subject to this article and alternative street to be provided. These are also shown on the Access and Rights of Way Plans (Documents 2.3A – 2.3F))

- 7.24 This article also makes provision for all rights of way (both public and private) in the stopped up streets to be extinguished and provision is made for the payment of compensation.

*Article 11 (Temporary stopping up of streets)*

- 7.25 This article deals with the temporary stopping up of streets for the purpose of carrying out the authorised development. It is included in the Order as it may be necessary for the undertaker to stop up streets temporarily.

- 7.26 The drafting of this article generally reflects that provided for by the model provisions, however, paragraphs 3 and 4(a) of the model provisions have not been included as it is considered that it is not necessary to specify any streets to be temporarily stopped up at this stage and it is drafted so that the prior consent of the street authority is required before any streets are stopped up temporarily.

*Article 12 (Public rights of way – creation, diversion and stopping up)*

- 7.27 This article is a departure from article 10 of the model provisions. It has been included in the Order to allow for the creation, diversion and stopping up of rights of way affecting land within the Order limits. It is necessary for some public rights of way to be stopped up and diverted in order for the authorised development to be carried out.

- 7.28 Section 136 of the 2008 Act requires that the Order may include the stopping up of a public right of way provided that an alternative right of way will be provided, or an alternative is not required. This article makes provision for alternative public rights of way to be created for the majority of the existing public rights of way that are to be stopped up.

- 7.29 Schedule 5 of the Order identifies the public rights of way that are affected by this article. Part 1 specifies the extent of the permanent stopping up, along with the new public rights of way that are to be created. The Schedule fixes terminus points for the new rights of way to be created; however, the exact alignment of the right of way between those points is to be agreed by with the local highway authority. Part 2 identifies the existing rights of way which will be permanently stopped up for which no substitute is to be provided.

7.30 The footpaths which is proposed to be permanently stopped up for which no substitutes are to be provided, and the rationale, are set out below:

PROW Stopped Up	Extent of Stopping Up	Reason no substitute is provided
KZ19 (part)	Between points 12 and 13 on Document 2.3C	A short length of footpath is to be stopped up where it crosses the widening of the A508 near the roundabout with the Roade bypass. A crossing over the A508 for pedestrians will be provided as part of the highway works
RZ3 (part)	Between points 23 and 24 on Document 2.3D	A short length of footpath is to be stopped up where it crosses the Roade bypass. A crossing over the bypass for pedestrians will be provided as part of the highway works
RZ6 (part)	Between points 25 and 26 on Document 2.3D	A very short length of bridleway is to be stopped up where it crosses the widening of the A508 near the roundabout with the Roade bypass. The bridleway will be part of the A508.

7.31 This article also provides for the creation of a new public right of way (i.e. not provided as a result of the stopping up and diversion of an existing right of way) being a cycle track linking the Roade Bypass and the bridleway. This is as set out in Part 3 of Schedule 5.

*Article 13 (Accesses)*

7.32 The new means of access to the main site is identified in Schedule 1 and is part of the highway works covered by Schedule 15. However, to allow some flexibility, this article is included to allow for modification of the access, or other means of access to be provided. This is subject to prior agreement

with the relevant highway authority or, in the case of private streets, the street authority.

7.33 Paragraph 4 provides for alterations to private means of access to be carried out (as detailed in Schedule 6) to enable the carrying out and use of the highway works.

7.34 Paragraph 5 refers to some private means of access which are being closed for which no substitute is to be provided. These are listed in Part 2 of Schedule 6. The reasons why no substitute is being provided are set out below.

<i>Private Means of Access</i>	<i>Reason why no substitute to be provided</i>
The private means of access shaded purple and marked B on the access and rights of way plans (Document 2.3A).	Wards Farm Bridge was built to access farmland on the east of the M1 from the area of the main site. This land has since been developed and is accessed via Collingtree. Hence the private means of access is no longer used and no longer
The private means of access shaded purple and marked A on the access and rights of way plans (Document 2.3A).	There is no need for a private access into the main site from Collingtree Road
The private means of access shaded purple and marked E on the access and rights of way plans (Document 2.3B).	There is no need for a private access into the main site from this part of the A508.
The private means of access shaded purple and marked H on the access and rights of way plans (Document 2.3B).	There is no need for a private access into the main site from this part of the A508.
The private means of access shaded purple and marked AQ on the access and rights of way plans (Document 2.3D).	Alternative and more suitable access into this land is already provided to the south
The private means of access shaded purple and marked D on the access and rights of way plans (Document 2.3B).	This access serves a small area of land that will be subsumed into the improvement works for J15 M1 motorway and the A45. It is not needed for access purposes.

*Article 14 (Maintenance of highway works)*

- 7.35 This article is based on an article found in other Development Consent Orders<sup>17</sup> and is included to provide for the maintenance of the new and altered public highways following the completion of the relevant works. It cross refers to the process of certification of commencement of maintenance by the undertaker under the highway protective provisions in paragraph [6] of Parts 2 and 3 of Schedule 15 (provisional certificate).

*Article 15 (Classification of roads)*

- 7.36 This drafting of this article is based on articles found in other Development Consent Orders.<sup>18</sup> It is required to make provision for the classification of new highways within the Order limits.

*Article 16 (Speed limits)*

- 7.37 This article is based upon articles in other Development Consent Orders, for example, the M1 Junction 10(a) Order,<sup>19</sup> and Houghton Regis Order<sup>20</sup> and EMG Order<sup>21</sup>. It makes provision for the lengths of road identified in Schedule 8 to be subject to new speed limits as set out in that schedule upon completion of the authorised development, as if such restrictions were imposed by an order under the Road Traffic Regulation Act 1984. The article also enables temporary speed limits during construction by agreement with the relevant highway authority.
- 7.38 Part 1 of Schedule 8 provides for amendments to existing orders.
- 7.39 Paragraph 9 of this article makes it clear that the new speed limits set by the Order may be varied in the future by the relevant traffic authority, as they could have been had they been imposed by an order under the Road Traffic Regulation Act 1984.

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<sup>17</sup> e.g. the Heysham to M6 Link Road Order 2013 S.I. 2013 No. 675 and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. No.17

<sup>18</sup> e.g. the Heysham to M6 Link Road Order 2013 S.I. 2013 No. 675 and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. No.17

<sup>19</sup> The M1 Junction 10a (Grade Separation) Order 2013 S.I. 2013 No. 2808

<sup>20</sup> The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 S.I. 2014 No. 2637

<sup>21</sup> The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. No.17

*Article 17 ( Traffic Regulation )*

- 7.40 This article provides for the necessary amendments to existing traffic regulation orders consequent on the highway mitigation works. Copies of the existing orders to be amended are contained in Document 6.12. The Article also makes provision for new permanent and temporary Traffic Regulation Orders.

*[Article 18 (Clearways and No Waiting)]*

- 7.41 [Article 18 provides for Clearways and No Waiting areas along lengths of the new highway works utilising the standard approach taken from orders in the area. The lengths of road affected are identified in Schedule [10] – *it is not known yet whether these provisions are required*].

*Article 19 (Motor Vehicle Restrictions)*

- 7.42 Article 19 provides for weight limit restrictions for vehicles on certain roads as specified in Part 1 of Schedule 11. Part 2 of Schedule 11 imposes the restriction of no right turn into or out of Blisworth Road comprised in Works No.11.

*Article 20 (Agreements with Highway Authorities)*

- 7.43 This article is included to allow the undertaker to enter into agreements with the relevant highway authority relating to the construction of a new highway, carrying out of works in the highway, stopping up, alteration or diversion of highways, maintenance of the structure of any bridge carrying a highway over or under a railway and landscaping.
- 7.44 All of the highway works will be carried out in accordance with the powers within the DCO and the relevant provisions of Schedule 15; however, this article is included in the Order as a precautionary measure in relation to any agreements that might be required with the Highway Authority thus avoiding the need to find an alternative statutory authority which may not be fit for purpose. For example, s.278 of the Highways Act 1980 can authorise works to the public highway however they have to be undertaken on behalf of the Highway Authority and be of public benefit, which would not necessarily be the case.

## **PART 4**

### **SUPPLEMENTAL POWERS**

#### *Article 21 (Discharge of water)*

- 7.45 This article largely reflects the drafting of article 14 in the general model provisions and is required to allow for the drainage of the land within the Order limits in connection with the carrying out and maintenance of the development. Under the provisions of this article consent is required from the person who owns the relevant watercourse, public sewer or drain but such consent may not be unreasonably withheld.
- 7.46 The drafting has been updated from the model provisions to refer to the Environmental Permitting (England and Wales) Regulations 2010 which supersede the relevant provisions of the Water Resources Act 1991.

#### *Article 22 (Authority to survey and investigate the land)*

- 7.47 This article is included to enable the undertaker to enter land within the Order limits to survey or investigate the land. This drafting broadly reflects that in article 16 of the model provisions save for an amendment to paragraph 2, so that notice need not be served on the undertaker in the event that they are the owner of the land.

## **PART 5**

### **POWERS OF ACQUISITION**

#### *Article 23 (Guarantees in respect of payment of compensation)*

- 7.48 The Applicant has included this article as security in respect of payment of compensation for the protection of any interests which are to be compulsorily acquired. The article will ensure that no compulsory acquisition can be pursued until appropriate security for the liabilities of the undertaker to pay compensation in respect of that acquisition has been provided to the relevant local planning authority (being either South Northamptonshire District Council or Northampton Borough Council) depending on which administrative area the proposed acquisition is situated in.
- 7.49 The article is based on Article 14 of The Hornsea One Off Shore Wind Farm Order

2014<sup>22</sup> and has subsequently been applied in various Development Consent Orders<sup>23</sup>.

*Article 24 (Compulsory acquisition of land)*

- 7.50 This article will authorise the compulsory acquisition of land shown on the Land Plans (Document 2.1 A-G) and described in the Book of Reference (Document 4.3). The Applicant is seeking acquisition of the freehold in respect of the land shown coloured pink on the Land Plans. [N.B. the extent of compulsory acquisition will be subject to change from that shown on the consultation draft Land Plans and Book of Reference following the completion of voluntary agreements before final submission – please refer to the draft Statement of Reasons for further detail]
- 7.51 This article also provides for the extinguishment of rights, trusts and incidents to which the land was previously subject.
- 7.52 Further detail on the rationale for this article is contained in the Statement of Reasons (Document 4.1).

*Article 25 (Compulsory acquisition of rights)*

- 7.53 This article is included to allow the compulsory acquisition of existing rights and the power to create and acquire compulsorily new rights [and to impose restrictive covenants] over the land shown on the Land Plans (Document 2.1A-G) and described in the Book of Reference (Document 4.3). It departs from article 21 of the model provisions and is based on recently approved provisions in various Development Consent Orders<sup>24</sup> This approach ensures that compulsory purchase is limited only to the rights that are required.
- 7.54 The approach requires a modification to compulsory purchase and compensation provisions and these are dealt with in Schedule 14.

*Article 26 (Private Rights)*

- 7.55 This article is largely based on article 22 of the model provisions, with some amendments (most notably it applies to private rights generally rather than just private rights of way). It provides that all private rights over land which is subject

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<sup>22</sup> S.I. 2014 No. 3331

<sup>23</sup> e.g. The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (S.I. 2016 No. 17) and The York Potash Harbour Facilities Order 2016 (S.I. 2016 No. 772)

<sup>24</sup> e.g. The York Potash Harbour Facilities Order 2016 (S.I. 2016 No. 772), The Triton Knoll Electrical System Order 2016 (S.I. No 2016 No. 880) and The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014 No. 2384)



to compulsory acquisition (in respect of the freehold) are extinguished and in respect of compulsory acquisition of rights, are extinguished to the extent that those rights are inconsistent with the rights required for the authorised development.

*Article 27 (Power to override easements and other rights)*

7.56 Article 27 ensures that where the works permitted by Order interfere with existing easements or other rights, those rights shall not present an impediment to delivery. Its purpose is to provide certainty that the carrying out of the authorised development will not be prevented as a result of any unknown third party rights. It also ensures that the land is affected to the minimum extent necessary to enable delivery of the development.

7.57 The Article provides for compensation to be payable to the beneficiary of any right that is extinguished, abrogated or discharged.

*Article 28 (Compulsory acquisition of land – incorporation of the mineral code)*

7.58 By incorporating the ‘mineral code’ this article exempts the existing minerals under land being automatically acquired pursuant to the exercise of compulsory acquisition. It also addresses the situation where an owner wishes to work existing minerals and provides the undertaker with the ability to compensate the owner for any inability to do so as a result of the development.

*Article 29 (Time limit for exercise of authority to acquire land and rights compulsorily)*

7.59 This article imposes a time limit of five years from the date of the Order for the exercise of compulsory acquisition powers.

*Article 30 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981)*

7.60 This article follows article 23 of the model provisions to apply for the application of the vesting declaration procedure to the compulsory acquisition under the Order. Some of those provisions are changed to clarify that the “undertaker” will be a “public authority” under the Compulsory Purchase (Vesting Declarations) Act 1981. It also departs from the model provisions to reflect the recently enacted amendments to the Compulsory Purchase (Vesting Declarations) Act 1981 made by the Housing and Planning Act 2016.

*Article 31 (Statutory Undertakers)*

- 7.61 This article allows the undertaker to extinguish rights of statutory undertakers and to replace, renew, reposition, alter and/or supplement apparatus belonging to the statutory undertakers within the Order limits.

*Article 32 (Rights under or over streets)*

- 7.62 Article 32 gives the Applicant the power to occupy land above or below streets within the Order limits without having to acquire that land. Compensation is payable for any loss or damage to structures along the relevant street.

*Article 33 (Temporary use of land for carrying out the authorised development)*

- 7.63 This article allows the Applicant to occupy the land specified in Schedule 12 temporarily while the works are carried out, and also any of the land identified for the permanent acquisition that has not yet been acquired.
- 7.64 The Article also makes provision for the time limit for return of the land, restoration and payment of compensation.
- 7.65 Paragraph (10) incorporates section 13 of the Compulsory Purchase Act 1965 and applies it to the temporary use of the land specified in Schedule 12 and shown coloured [yellow] on the Land Plans (Documents 2.1A-G). Section 13, which allows enforcement of possession, is automatically applied to the powers in articles 23 – 36 by virtue of Section 125 of the 2008 Act. The power is required in relation to the temporary use of land to ensure that the undertaker will be able to enforce the taking of temporary possession of the land to carry out the relevant works in the event that the owner or occupier refuses to allow possession.

*Article 34 (Temporary use of land for maintaining authorised development)*

- 7.66 This article allows the undertaker to take temporary possession of land within the Order limits to maintain the authorised development during the 5 year maintenance period (being the five years from when the development is first brought into use).

*Article 35 (Apparatus and rights of statutory undertakers in stopped up streets)*

- 7.67 The article follows article 32 of the model provisions and protects statutory undertakers' rights where their apparatus is under, in, along or across a street which has been stopped up under the Order.

- 7.68 The article provides that a statutory undertaker must remove/relocate the apparatus at the reasonable request of the undertaker (the undertaker bearing the cost of that relocation).

*Article 36 (No double recovery)*

- 7.69 This article is based on other recent DCOs<sup>25</sup> and secures the established principle that a claimant in compulsory purchase is to be compensated for no more and no less than his loss. The article ensures that compensation is not payable in respect of the same loss or damage under both the Order and other compensation regimes.

**PART 6**

**MISCELLANEOUS AND GENERAL**

*Article 37 (Operation and Use of Railways)*

- 7.70 This article is based on the article contained within Schedule 2 of the model provisions (model provisions for Railways). It is included as part of the authorised development comprises the provision of a railway. This article has been amended from the article in the model provisions for Railways to allow only for the carriage of goods as the authorised development will not be used for the transport of passengers.

*Article 38 (Operational land for the purposes of the 1990 Act)*

- 7.71 This article declares that land within the Order Limits utilised for the highway works shall be treated as operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990.

*Article 39 (Charges)*

- 7.72 This article is based on an article at Schedule 2 of the model provisions (model provisions for Railways). It is included to allow the undertaker to impose charges for the carrying of goods on the railway, or for other services or facilities connected to its operation. The article has been amended from the article contained in the model provisions, as the proposed railway is to be used for the carriage of goods only.

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<sup>25</sup> E.g. The Triton Knoll Electrical System Order 2016 (S.I. 2016 880) article 28

*Article 40 (Defence to proceedings in statutory nuisance)*

- 7.73 This article is based upon an article in the model provisions and appears in a number of approved Development Consent Orders. It provides a defence in the circumstances specified to proceedings brought in relation to a nuisance caused by noise or vibration.

*Article 41 (Felling or lopping of trees and removal of hedgerows)*

- 7.74 This article is based upon an article in the model provisions. It is included to enable the undertaker to fell or lop any tree hedgerow or shrub near the authorised development, or cut back its roots, where it believes that it is necessary to prevent the tree hedgerow or shrub from interfering with the authorised development, but subject to some exceptions.
- 7.75 The article makes provision for compensation to be payable for any loss or damage arising.

*Article 42 (Protective Provisions)*

- 7.76 The article gives effect to the protective provisions which are contained in Schedule 15 referred to further below.

*Article 43 (Governance of requirements and protective provisions relating to highway works)*

- 7.77 The article addresses the tension between a desire to maintain flexibility on details to be approved pursuant to requirements (and in the case of the highway works, protective provisions) and the need to ensure that any details approved do not take the development outside the scope of the authorised development or beyond the scope of what has been environmentally assessed.
- 7.78 Paragraph (1), for the avoidance of doubt, makes it clear that all initial approvals under the requirements and Part 2 and 3 of Schedule 15 are governed by Article 4 and prevents details being approved which lead to a form of development outside the scope of that which has been assessed. Paragraph (2) then follows the advice in paragraph 19.4 of Advice Note Fifteen: Drafting Development Consent Orders and makes it clear that approvals may subsequently be amended but any changes to approved details must not stray outside the parameters of what has been assessed.
- 7.79 The approaches taken to the governance of approval of details and subsequent amendments vary considerably in approved orders.

- 7.80 Paragraph's (1) and (2) are identical to Article 42 of The East Midlands Gateway Rail Freight Interchange and Highway Order 2016<sup>26</sup>, and are consistent with the approaches taken in requirement 34 of The White Moss Landfill Order 2015, S1 2015 No.1317 and requirement 35 of The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015<sup>27</sup>.
- 7.81 It is felt preferable that an overarching provision such as that contained in Article 43 should be within an article rather than in the requirements. This is particularly so in this case since the paragraphs (1) and (2) cover Schedule 15, in addition to the requirements in Schedule 2.
- 7.82 It is very important that the flexibility that is allowed for is retained. If no provision is made for details to be approved subsequently and varied (within the constraints referred to) then this development will be substantially disadvantaged in comparison to other large scale distribution sites and its ability to compete with other sites for footloose occupiers would be adversely affected.
- 7.83 The opportunity is taken in this article to make it absolutely clear that the requirements are, unless otherwise stated, all to be enforced by the local planning authority.
- Article 44 (Disapplication, application and modification of legislative provisions)*
- 7.84 This article seeks, as permitted by section 120(5) of the 2008 Act, to incorporate and modify legislative provisions which are necessary for carrying out the authorised development.
- 7.85 Articles 44(1) and (2) apply conventional appeal arrangements to any refusal by the local planning authority of an application for approval pursuant to the provisions of a requirement, as if such approval was being sought in respect of a planning condition. This is required to resolve any dispute since there is no other statutory mechanism. This is also applied to the other authorities whose approval of details is needed pursuant to the requirements.
- 7.86 Article 44 (3) (4) and (5) disapply the need for some additional consents to make use of the "one stop shop" and avoid the need to obtain a separate consent governing the same development.

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<sup>26</sup> S.I. 2016 No. 17

<sup>27</sup> S.I. 2015 No.1347

- 7.87 Article 44(6) provides that development carried out pursuant to a planning permission following implementation of the DCO would not be in breach of the DCO, ensuring no risk of criminal liability pursuant to section 161 of the 2008 Act. The sub paragraph encompasses any development authorised by a general development order as well as an express planning permission. This follows Article 5 (2) of The East Midlands Gateway Rail Freight Interchange and Highway Order 2016<sup>28</sup>.
- 7.88 Article 44 (7) provides that, instead of the Secretary of State being the party with whom a modification or discharge of a development consent obligation must be agreed, provision is made for the role to be taken by the local planning authority or local highway authority by whom it is enforceable. The reason being that the DCO will have been the subject of negotiation with the local authority and the undertaker and the contents are not determined by the Secretary of State. Amendments to a DCO, under s.106 of the Town and County Planning Act 1990 require agreement with the authorities by whom the obligations are enforceable. It is felt unnecessary to require a further consent from the Secretary of State. The analogy is when the Secretary of State grants a planning permission after a call in inquiry or after a s.78 appeal – any s.106 agreement may well have been relevant to the decision to grant permission however there is no restriction on the ability of the applicant and the local authority to agree amendments to the s.106 agreement subsequently, where appropriate.
- 7.89 Article 44(8) and (9) are included to provide for the local planning authority to deal with amendments to requirements in the same way as they deal with amendments to planning conditions attached to a planning permission and to allow the local authority to deal with non-material changes in the same way as if dealing with a planning permission. These are felt to be sensible additions since requirements are, in substance, the same as planning conditions and local planning authorities are used to dealing with amendments to planning conditions (under s.73 of the Town and Country Planning Act 1990) and minor amendments to planning permissions (under s.96A). Both processes take significantly less time than the process for the amendment of a DCO.
- 7.90 Article 44(10) dis-applies Regulation 4 of the Town and country Planning (Control of Advertisements)(England) Regulation 2007 in respect of advertisements located in the locations shown on the parameters plan (Document 2.10). It obviates the need to obtain a further consent for the totems and sign boards required for the development.

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<sup>28</sup> S.I. 2016 No. 17

- 7.91 Article 44 (11) dis-applies the CIL provisions to ensure there are no, unforeseen, liabilities on the undertaker arising from any CIL yet to be introduced. It is common for CIL to be dissapplied in DCO.<sup>29</sup>
- 7.92 Article 44 (12) - Schedule 16 refers to miscellany of controls and applies/modifies and/or amends them as appropriate to ensure they facilitate, and do not constrain, the development. This is based on the approach taken in the Thames Tideway Tunnel Order.<sup>30</sup>
- 7.93 Article 44 (13) is a general provision which will ensure that the development is not frustrated or constrained by, as yet unidentified, statutory constraint. This provisions is identical to that contained in Article 5(2) of the A14 Order.<sup>31</sup>

*Article 45 (Certification of plans and documents)*

- 7.94 This article reflects the drafting of the model provisions and specifies the plans and documents that must be submitted, as soon as practicable following the making of the order, to the decision maker to be certified as a true copy. The documents listed under this article are those referred to in the draft Order.

*Article 46 (Service of Notices)*

- 7.95 This article is a departure from the model provisions. It is included to ensure certainty regarding the procedure for service of any notice required by the Order, for example, under article 22 (Authority to survey and investigate the land).

*Article 47 (Arbitration)*

- 7.96 This article reflects that contained in the model provisions and is included in case of any dispute regarding the provisions of this Order, subject to it being expressly disappplied, as it is in the case of some of the protective provisions which provide for their own dispute resolution mechanisms. The Lands Chamber of the Upper Tribunal has been inserted as the appropriate body for which any dispute should be referred to.

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<sup>29</sup> See for example Thames Tideway Tunnel, Article 14 DCO and National Grid Hinckley Point C Connection

<sup>30</sup> SI 2014 2384

<sup>31</sup> The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 SI 547

## **SCHEDULES**

### *Schedule 1 (Authorised Development)*

- 7.97 This schedule describes the authorised development for which Development Consent is sought, including associated development. The NSIP and Associated Development are identified separately.

### *Schedule 2 (Requirements)*

- 7.98 As permitted by section 120 of the 2008 Act, the DCO also includes, requirements to govern the authorised development. The requirements are set out in Schedule 2 of the draft DCO. These have had regard to the drafting of conditions in planning permissions granted for similar schemes and also the requirements contained in The Daventry International Rail Freight Interchange Alteration Order 2014<sup>32</sup> and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016<sup>33</sup>. They are, however, bespoke for the particular development proposed. The objective of these requirements is self-explanatory. They are intended to evolve through discussions, particularly with the local authorities and other statutory agencies.

- 7.99 The requirements cover the following issues:
- Time limit for commencing the authorised development (Requirement 1)
  - Phases of development (Requirement 2)
  - Sustainable Transport (Requirement 3)
  - Phasing of highways works (Requirement 4)
  - Detailed design approval (Requirement 5 and 6)
  - Provision of Landscaping (Requirement 7 )
  - Biodiversity Management Plan (Requirement 8)
  - Construction Environmental Management Plan (Requirement 9)
  - Earthworks (Requirement 10)
  - Archaeology (Requirement 11)
  - Lighting details (Requirement 12)
  - Building Sustainability (Requirement 13)
  - Flood risk and surface water drainage (Requirements 14 and 15)
  - Foul water drainage (Requirement 16)
  - Construction Hours (Requirement 17)
  - Construction Noise (Requirement 18.)

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<sup>32</sup> S.I. 2014 No. 1796

<sup>33</sup> S.I. 2016 No. 17



- Noise during the operational phase (Requirement 19.)
- Contamination (Requirement 20 )
- Waste management during the operational phase (Requirement 21)

*Schedule 3 (Streets subject to Street Works)*

7.100 This Schedule lists the streets which are to be subject to the street works pursuant to article 8.

*Schedule 4 (Streets to be permanently stopped up for which a substitute is to be provided)*

7.101 This Schedule lists the length of streets which are to be stopped up pursuant to article 10 and details of the substitute for those streets with reference to the Access and Rights of Way Plan (Document 2.3).

*Schedule 5 (Public Rights of Way to be Stopped Up)*

*Part 1 - Public Rights of Way to be Stopped Up for which a substitute is to be provided.*

7.102 This Part details the public rights of way which are to be stopped up with substitute to be provided pursuant to article 12 with reference to the Access and Rights of Way Plan (Document 2.3).

*Part 2 – Public Rights of Way to be Created for which no substitute is to be provided.*

7.103 This Part details the public rights of way which are to be stopped up with no substitute pursuant to article 12 with reference to the Access and Rights of Way Plan (Document 2.3).

*Part 3 – New Public Rights of Way to be Created*

7.104 This Part sets out the new public right of way (cycle track) which is to be provided.

*Schedule 6 (Private Means of Access)*

*Part 1 – Private Means of Access to be Replaced*

- 7.105 This Part details the private means of access which are to be stopped up and replaced pursuant to article 13 with reference to the Access and Rights of Way Plan (Document 2.3).

*Part 2 – Private Means of Access to be Closed for which no Substitute is to be Provided*

- 7.106 This Part details the private means of access which are to be stopped up pursuant to article 13 and not replaced, with reference to the Access and Rights of Way Plan (Document 2.3).

*Part 3 – New private means of Access Created*

- 7.107 This Part sets out the new private means of access which are to be provided.

*Schedule 7 (Classification of Roads)*

- 7.108 This Schedule sets out the classification of the new and existing lengths of roads created as a result of the highway works.

*Schedule 8 (Speed Limits)*

- 7.109 This schedule sets out the new speed limits which will apply following the completion of the works and also revokes existing orders which conflict with those limits.

*Schedule 9 (Traffic Regulation)*

- 7.110 This schedule deals with any necessary amendments to existing traffic regulation orders and new permanent and temporary orders required as a result of the highway works.

*Schedule 10 (Clearways and No Waiting)*

- 7.111 [This Schedule is currently included as a place holder until it is determined whether or not it is needed]

*Schedule 11 (Motor Vehicle Restrictions)*

- 7.112 This Schedule deals with the no right turn out of Blisworth Road (Works No.11) and the weight restriction orders required as a result of the highway works.

*Schedule 12 (Land for temporary possession)*

- 7.113 This Schedule sets out the land of which temporary position may be taken as referred to in article [33].

*[Schedule 13 (Land to which powers to extinguish doesn't apply)]*

- 7.114 This Schedule lists the plots of land over which powers to extinguish rights pursuant to article [25] do not apply.]

*Schedule 14 (Modification of compulsory purchase enactments)*

- 7.115 This Schedule modifies provisions for compensation following the creation of new rights.

*Schedule 15 (Protective provisions)*

- 7.116 Schedule 15 includes provisions to protect the interests of various bodies whose assets may be affected by the proposed development. These will include:

Part 1 Network Rail  
Part 2 Highways England  
Part 3 Northamptonshire County Council  
Part 4 [Cadent]

- 7.117 Of particular note are Parts 2 and 3 of Schedule 15 which contain protective provisions to protect the interests of the highway authorities, being Highways England and Northamptonshire County Council. These provisions govern the carrying out of the highway works and obviate the need for any agreements pursuant to s.38 and s.278 of the Highways Act 1980 which would be the usual manner of governing off site highway works.