



# Keuper Gas Storage Project

Explanatory Memorandum

November 2015

Application Reference No:  
EN030002



**THE INFRASTRUCTURE PLANNING  
(APPLICATIONS: PRESCRIBED FORMS AND  
PROCEDURE) REGULATIONS 2009**

**KEUPER GAS STORAGE PROJECT**

**EXPLANATORY MEMORANDUM**

Zyda Law  
60 Cygnet Court  
Timothy's Bridge Road  
Stratford upon Avon  
Warwickshire  
CV37 9NW  
[www.zydalaw.com](http://www.zydalaw.com)



<b>Regulation No:</b>	<b>5(2)(c)</b>
<b>Document Ref:</b>	<b>3.2</b>
<b>Author:</b>	<b>Zyda Law 60 Cygnet Court Stratford upon Avon Warwickshire CV37 9NW</b>
<b>Date:</b>	<b>November 2015</b>
<b>Version:</b>	<b>Final</b>



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## **1. Introduction**

- 1.1 Keuper Gas Storage Limited (“the Applicant”) is making an application to the Secretary of State for the Department of Energy and Climate Change for a Development Consent Order (“DCO” or “the Order”) to authorise the construction, operation and maintenance of an Underground Gas Storage (“UGS”) facility and associated development in the Holford Brinefield, Cheshire (“the Project”), which is more particularly described at Schedule 1 of the DCO which accompanies the Application, and is titled: The Keuper Underground Gas Storage Development Consent Order 201[x].
- 1.2 The Explanatory Memorandum has been prepared to explain the purpose and effect of the provisions of the DCO as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- 1.3 As a consequence of the Localism Act 2011, and the revocation of the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (“the Model Provisions”), applicants are no longer required to include in this memorandum an explanation of the purpose and effect of any particular divergences from the Model Provisions. Nevertheless, the DCO is based on the Model Provisions contained in the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, but in certain instances departs from them. Where there is a departure from the Model Provisions an explanation of the new provision is provided and any relevant precedents are identified.



## 2. Purpose of the Order

- 2.1 The authorised development comprises the carrying out of operations wholly within England for the purpose of creating an UGS facility with a working capacity of at least 43 Million Standard Cubic Metres (“mcm”), and, in accordance with Sections 17(1), 14(1)(c) and Section 31 of the Planning Act 2008 (“the Act”) is a Nationally Significant Infrastructure Project (“NSIP”) requiring development consent. In accordance with Section 115(b), the DCO also provides development consent for associated development.
- 2.2 The authorised development that forms an NSIP and which requires development consent in accordance with Section 115(1) (a) of the Act, comprises 19 UGS cavities (described in Schedule 1 to the DCO).
- 2.3 Pursuant to Section 115(1) (b) of the Act, development consent may also be granted for associated development. The defining characteristics of associated development are set out in DCLG guidance<sup>1</sup> which illustrates the type of development that may qualify. The guidance states that associated development must not be an aim in itself and in most cases it is of a type normally subordinate to and necessary for the effective operation of the NSIP. The DCO seeks consent for the associated development detailed at Schedule 1 of the DCO.
- 2.4 It is the Applicant’s view that all associated development sought within the DCO is within Section 115 of the Act and is subordinate to and necessary for the effective operation of the Project.
- 2.5 The DCO also provides authorisation for the compulsory acquisition of land and rights in land in accordance with Sections 120(3) and 122 of the Act. The Book of Reference (Doc ref. 4.3) read together with the land plans (Doc refs. 2.2.1 to 2.2.8) and the DCO describes the location, extent and nature of the interests in land that are to be acquired. The application is accompanied by a Statement of Reasons (Doc

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<sup>1</sup> Department for Communities and Local Government, *Planning Act 2008: Guidance on associated development applications for major infrastructure projects*, April 2013

ref. 4.1) which sets out the justification for the powers of acquisition required for the Project.

- 2.6 As the DCO includes provision to apply and modify statutory provisions, the DCO is required to be in the form of a statutory instrument in accordance with Section 117(4) of the Act.

### 3. The Draft Order

3.1 The DCO consists of 41 operative provisions and 9 Schedules.

#### Part 1 – Preliminary

<b>Article 1</b>	<i>(Citation and Commencement)</i>  This Article provides for the commencement and citation of the Order.
<b>Article 2</b> <i>(Article 1 of Schedule 1 of the DCO Model Provisions)</i>	<i>(Interpretation)</i>  This Article provides for the interpretation of the Order and follows Article 1 of Schedule 1 of the Model Provisions. Those definitions which do not relate to an UGS facility have been deleted and other definitions have been modified to ensure consistency with other modifications in the Order.  The Order does not utilise the concept of “ancillary works” set out in the Model Provisions and instead makes reference throughout to the “authorised development” which includes both the NSIP and the associated development.  A definition of “commence” is included which incorporates the definition of a “material operation” defined in Section 155 of the Act. Excluded from this definition are operations consisting of archaeological investigation, investigations for the purpose of assessing ground and geological conditions, ecological surveys, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure and the temporary display of site notices. This definition is used in the context of the requirements and the Activities excluded from

	<p>this definition are necessary to permit investigations, surveys and other activities on the land which may reasonably be required in order to satisfactorily discharge pre-commencement requirements.</p> <p>The Order also defines “maintain” which includes maintain, inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace or improve the authorised development. The definition of maintenance is constrained so as not to vary from the description of the authorised development in Schedule 1 and only to the extent assessed in the Environmental Statement (Doc ref. 6.1).</p>
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## Part 2 – Principal Powers

<p><b>Article 3</b>  <i>(Article 2 of Schedule 1 of the DCO Model Provisions and Article 6 of Schedule 2 of the DCO Model Provisions relating to Railways)</i></p>	<p><i>(Development consent etc. granted by the Order)</i></p> <p>Article 3(1) adopts the form of Article 2 of Schedule 1 of the Model Provisions to grant development consent for the authorised development and consent to use the authorised development within the Order limits subject to the requirements in Schedule 2. The authorised development means the development under Sections 14(1)(c), 17(2) and 17(4) of the Act and associated development under Section 115 of the Act.</p> <p>Schedule 1 authorised development contains a description of the authorised development and associated development.</p> <p>Article 3(2) of the DCO makes provision for the works described in Schedule 1 to deviate from the lines or situations shown on the work plans within the limits of deviation. This Article is based</p>
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	<p>upon the A160/A180 (Port of Immingham Improvement) Development Consent Order (SI 2015 No. 129) and follows the wording of Article 6 of Schedule 2 of the DCO Model Provisions relating to Railways. It is not included in the DCO Model Provisions. It is appropriate to include limits of deviation as the authorised development contains linear elements, such as pipelines and cables. This therefore provides a suitable degree of flexibility within the clearly defined limits to allow for micro-siting.</p> <p>In terms of vertical deviation, the maximum and minimum depths of the siting of the UGS cavities is constrained by the descriptions of the cavity works contained in Schedule 1.</p>
<p><b>Article 4</b> <i>(Article 3 of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Maintenance of authorised development )</i></p> <p>This Article is identical to Article 3 of Schedule 1 of the DCO Model Provisions. This Article sets out the scope within which the undertaker may maintain the development. The power is required to permit the undertaker to carry out works of maintenance in relation to the authorised development.</p>
<p><b>Article 5</b></p>	<p><i>(Authorisation of use)</i></p> <p>Article 5 is not in the Model Provisions. This Article would authorise the operation and use of the development and all other works authorised by the Order. This provision has been added pursuant to Section 120 and paragraph 5 of part 1 of Schedule 5 of the Act. It has been included to ensure that the undertaker has the benefit of statutory authority conferred by Section 158 of the Act when using the development authorised</p>

	<p>by the Order. Precedent for this Article is found in the Hinkley Point C Development Consent Order (SI 2013 No. 648).</p>
<p><b>Article 6</b> <i>(Article 4 of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Benefit of Order)</i></p> <p>This Article is identical to Article 4 of Schedule 1 of the DCO Model Provisions and provides that the undertaker has the sole benefit of the Order, subject to Article 7 which sets out the circumstances in which the benefit of the Order may be transferred.</p>
<p><b>Article 7</b> <i>(Article 5 of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Consent to transfer benefit of Order)</i></p> <p>Article 7 (1), (2) and (3) of the Order closely follow Articles 5(1) and (2) and (3) of Schedule 1 of the DCO Model Provisions with minor amendments for clarity and consistency. They provide that the benefit of all or part of the Order, together with all corresponding restrictions, liabilities or obligations, may be transferred or leased to another person.</p> <p>Article 7 (3) of the Order extends Article 5 of the Model Provisions, by adding the wording “including development consent obligations within the meaning of Section 106A of the 1990 Act” to provide further clarity as to the restrictions, liabilities and obligations that the transferee or lessee would be subject to.</p> <p>This provision is necessary to provide for the transfer of the benefit of the Order with appropriate safeguards.</p>
<p><b>Article 8</b> <i>(Article 7 of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Defence to proceedings in respect of statutory nuisance)</i></p> <p>This Article follows Article 7 of Schedule 1 of the Model Provisions. It provides that no person is able to bring</p>



	<p>proceedings for statutory nuisance under the Environmental Protection Act 1990 in relation to noise, if the noise is created in connection with the construction or maintenance of the authorised development, and notice has been given under Section 60 or consent obtained under Section 61 or 65 of the Control of Pollution Act 1974, or where the noise is unavoidable.</p>
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### Part 3 – Streets

<p><b>Article 9</b> <i>(Article 8 of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Street works)</i></p> <p>This Article follows Article 8 of Schedule 1 of the Model Provisions with minor modifications for consistency. This Article confers authority on the undertaker to break open, tunnel under, place and maintain apparatus or execute works to provide sight lines within the streets specified in Schedule 3 (streets subject to street works).</p> <p>The power is required in order to facilitate the construction and maintenance of the authorised development.</p> <p>Article 9(1) (e) of the Order is additional to Article 8 of the DCO Model Provisions. It includes the right to provide or improve sight lines as may be required by the highway authority. This additional provision is included in the Order because it makes provision to carry out highway works related to the authorised development, as permitted by Sections 120(3) and (4) together with item 15 of part 1 of Schedule 5 of the Act.</p>
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<p><b>Article 10</b> <i>(Article 6 of Schedule 2 of the TWA Model Provisions)</i></p>	<p><i>(Power to alter layout, etc., of streets)</i></p> <p>This Article follows Article 6 of Schedule 2 of the Transport and Works Act Model Provisions with minor modifications for clarity and consistency with other provisions of the Order. This Article is not within the DCO Model Provisions.</p> <p>Paragraph 1 of the Article would allow for the layout of existing streets specified in Schedule 4 to be altered to ensure that they accommodate the specified accesses.</p> <p>Paragraph 2 of the Article confers a broader power to alter the layout of any street within the Order limits for the purposes of constructing and maintaining the authorised development. However, this must be with the consent of the street authority, which is not to be unreasonably withheld.</p> <p>This provision falls under item 15 of part 1 of Schedule 5 of the Act, and may be included in the draft Order under Section 120(3) of the Act.</p> <p>Precedent for this approach is found in the Preesall Development Consent Order, Article 10 (SI 2015 No. 1561).</p>
<p><b>Article 11</b> <i>(Article 10 of Schedule 2 of the TWA Model Provisions and Article 10 of Schedule 2 of the DCO Model Provisions relating to railways)</i></p>	<p><i>(Maintenance of altered streets)</i></p> <p>This Article is based on Article 10 of the Transport and Works Act Model Provisions and Article 10 of Schedule 2 of the DCO Model Provisions relating to railways. This Article is not provided for in the DCO Model Provisions.</p> <p>This Article provides that where streets are altered or diverted in accordance with the Order they are to be maintained at the expense of the undertaker for a period of 12 months and</p>

	<p>thereafter at the expense of the street authority. This approach ensures that the interests of the highway authority are safeguarded.</p> <p>As per the TWA Model Provisions, further incidental provision is made for the undertaker to have a defence against claims for loss or damage resulting from failure to maintain any street under this Article, if they can prove that they took all care reasonably necessary in the circumstances to ensure that the relevant part of the street was not dangerous to traffic. This Article sets out factors which a court can take into account in considering this defence. No offence is created.</p> <p>The provision is necessary to address maintenance of the site accesses proposed in accordance with Work Nos.: 6 and 7, and for consistency with the general powers contained in Articles 9, 10 and 13 in respect of street works, altered streets and accesses.</p>
<p><b>Article 12</b> <i>(Article 11 of the DCO Model Provisions)</i></p>	<p><i>(Temporary stopping up of streets)</i></p> <p>This Article is based on Article 11 of the Model Provisions with modifications for clarity and consistency. This Article provides for the temporary stopping up of streets, subject to the consent of the relevant local highway authority, which may attach reasonable conditions to that consent, or, in the separate case of the temporary stopping up of those streets listed in Schedule 5 (streets and rights of way to be temporarily stopped up) of this Order, following consultation with the local highway authority.</p> <p>The exercise of both the general or specific power imposes a duty on the undertaker to provide reasonable access for</p>

	<p>pedestrians going to or from premises abutting an affected street if there would otherwise be no access. The duty extends to restoring the street to the reasonable satisfaction of the street authority.</p> <p>Additional wording not contained within the DCO Model Provisions is inserted into Article 12 of the Order, which provides for the temporary stopping up of rights of way. This provision is necessary and expedient under Section 120(5)(c) of the Act to give full effect to Article 3 (development consent etc. granted by the Order) to enable the safe laying of the linear infrastructure (pipelines and cables) described in the numbered works and in the formation of new accesses to the authorised development.</p> <p>This Article also provides for compensation for persons who suffer loss by the suspension of any private right of way under this Article, which is to be determined in accordance with Part 1 of the 1961 Act if not agreed.</p>
<p><b>Article 13</b> <i>(Article 12 of the DCO Model Provisions)</i></p>	<p><i>(Access to works)</i></p> <p>This Article is identical to Article 12 of the Model Provisions. The Article’s specific power enables the formation of the new accesses identified in Schedule 6 and described by Schedule 1 Works Nos.: 6 and 7.</p> <p>It also contains a general power to form new or improve existing accesses that are reasonably required for the authorised development, with the approval of the relevant planning authority, and following consultation with the highway authority.</p>

	This power facilitates the formation or improvement of accesses to the authorised development.
<b>Article 14</b> <i>(Article 13 of the DCO Model Provisions)</i>	<i>(Agreements with street authorities)</i>  This Article reflects Article 13 of the Model Provisions which would authorise street authorities and the undertaker to enter into agreements relating to the construction of new streets, the stopping up, alteration or diversion of streets and street works listed in the Order. The Article does not include reference to 13 (1) (b) of the DCO Model Provisions, as this is not required.

#### Part 4 – Supplemental Powers

<b>Article 15</b> <i>(Article 14 of the DCO Model Provisions)</i>	<i>(Discharge of water)</i>  This Article reflects Article 14 of the DCO Model Provisions which permits the undertaker to discharge water into any watercourse, sewer or drain in connection with the carrying out or maintenance of the authorised development, with the approval and superintendence (if provided) of the authority to which the watercourse, public sewer or drain belongs (such approval may not be unreasonably withheld and may be subject to reasonable terms and conditions).  Article 15 (7) has been amended to update the reference to the successor consenting regime: the Environmental Permitting (England and Wales) Regulations 2010.
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<p><b>Article 16</b> <i>(Article 15 of the DCO Model Provisions)</i></p>	<p><i>(Protective work to buildings)</i></p> <p>This Article reflects Article 15 of the DCO Model Provisions and would confer upon the undertaker the right to carry out protective works to any buildings within the Order limits, before or during construction of the authorised development, in the vicinity of the building, and for up to five years after that part of the authorised development opens for this.</p> <p>The Article makes provision for notice and counter notice to be served (except in cases of emergency) before the powers are exercised and for any dispute to be referred to arbitration. The Article also makes provision for compensation for affected persons.</p> <p>The Environmental Statement predicts a minor effect on the moat at Drakelow Hall Farm (a Scheduled Monument), and does not predict any physical effect on the fabric of the monument. As a precautionary measure, this Article provides for the carrying out of protective works such as the proposed “hoarding” (the inclusion of which is an augmentation of Model Provision Article 15).</p>
<p><b>Article 17</b> <i>(Article 16 of the DCO Model Provisions)</i></p>	<p><i>(Authority to survey and investigate the land)</i></p> <p>This Article is identical to Article 16 of the Model Provisions.</p> <p>The Article confers upon the undertaker a power to enter upon land within the Order limits, or which may be affected by the authorised development, for the purposes of surveying or investigating it. The power extends to making trial holes, carrying out ecological investigations and to use and place apparatus on the land. The power to enter upon the land or</p>

	<p>place or remove equipment is subject to a requirement on the undertaker to provide at least 14 days' notice to every owner and occupier of the land. The undertaker may be asked to provide proof of their authority to enter onto the land. Loss or damage occasioned through the exercise of this right, if not agreed, is determined in accordance with Part 1 of the Land Compensation Act 1961.</p>
<p><b>Article 18</b></p>	<p><i>(Temporary closure of, and works in and over, the canal)</i></p> <p>This Article enables the undertaker to temporarily close, or restrict the use of, the parts of the canals referred to in Schedule 7 of the DCO, and the adjacent towpath in connection with the construction of the authorised development. This Article also contains a general power to temporarily close part of the canal, or on grounds of health and safety only, close the canal to navigation together with the power to moor vessels, and temporarily suspend mooring rights, in connection with the construction or maintenance of the authorised development.</p> <p>These powers are subject to a duty to close no more of the relevant canal as is necessary in the circumstances, and if complete closure is unavoidable, a duty to keep the duration of the closure to a minimum. The undertaker is also under a duty to take reasonable steps to ensure that canal users are made aware of any temporary closure or restriction of use and to render assistance in the case of emergency. Persons suffering loss or damage as a result of the suspension of any private right to use the towpath, or as consequence of the functioning of any intake or discharge along the canal, are entitled to be compensated.</p>

	<p>This Article is required to facilitate the construction, maintenance and use of the new brine discharge adjacent to the Runcorn Site. The drafting of this Article reflects, with modifications for clarity and consistency with the Order, Article 20 of The National Grid (North London Reinforcement Project) Order (SI 2014 No. 1052).</p>
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## Part 5 – Powers of Acquisition

<p><b>Article 19</b> <i>(Article 18 of the DCO Model Provisions)</i></p>	<p><i>(Compulsory acquisition of land)</i></p> <p>This Article provides for the compulsory acquisition of land required for, incidental to or to facilitate, the authorised development. This Article reflects Article 18 of the Model Provisions. However, the wording “the undertaker may use any land so acquired for the purposes authorised by this Order or for any other purposes in connection with or ancillary to the authorised development” has been added to Article 19(1(b)). This is to clarify that the undertaker can use the compulsorily acquired land for the purposes authorised by the Order, or for any other purposes in connection with or ancillary to the authorised development.</p> <p>Reference to Article 18(2) and 18(3) of the Model Provisions, which detail the extinguishment of rights in land to be acquired and references to discharge of trusts, rights and incidents, has been removed. Articles 3, 4 and 5 authorise the construction and use of the works described in Schedule 1. Consequently, by operation of Section 158 of the Act, the undertaker has the statutory authority to construct and operate the authorised development, even when this would mean that the undertaker</p>
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	<p>breaches or interferes with rights and restrictive covenants which may burden the land. It is therefore proportionate to alter Model Provision 18 to take this into account.</p>
<p><b>Article 20</b> <i>(Article 20 of the DCO Model Provisions)</i></p>	<p><i>(Time limit for exercise of authority to acquire land compulsorily)</i></p> <p>This Article reflects Article 20 of the Model Provisions and limits the exercise of the authority to compulsorily acquire land to a period of 5 years from the date of the Order being made.</p> <p>Article 20(1) (a) of the Order departs from the Model Provisions slightly, by clarifying that Part 1 of the 1965 Act makes provision for the compulsory acquisition under the Acquisition of Land Act 1981), and by clarifying that Article 20(1) is in respect of the acquisition by the undertaker of land for the authorised development under the Order.</p> <p>Article 20(2) and 20(3) of the Order, separate Article 20(2) of the Model Provisions, to provide for greater clarity.</p>
<p><b>Article 21</b> <i>(Article 21 of the DCO Model Provisions)</i></p>	<p><i>(Compulsory acquisition of rights)</i></p> <p>This Article follows Article 21 of the Model Provisions to enable the undertaker to acquire compulsorily the new rights described in the Book of Reference.</p> <p>The Order does not include reference to acquiring existing rights (Model Provision Article 21(1)), since their acquisition will automatically follow from the acquisition of the land to which they are attached. In addition, existing rights in land affected by the compulsory acquisition of rights are addressed in Article 29 of the Order.</p>

<p><b>Article 22</b> <i>(Article 24 of the DCO Model Provisions)</i></p>	<p><i>(Acquisition of subsoil only)</i></p> <p>This Article follows Article 24 of the Model Provisions to provide that the undertaker may acquire so much of or such rights over the subsoil of land as set out in the land plans (Doc ref. 2.2.1 to 2.2.8) and Book of Reference (Doc ref. 4.3).</p> <p>This Article allows the undertaker to minimise the extent of interests acquired from landowners enabling the acquisition of the subsoil only, rather than whole of the land. This Article may be particularly useful in respect of the UGS cavities, vertical wells and pipelines and cables.</p>
<p><b>Article 23</b> <i>(Article 26 of the DCO Model Provisions)</i></p>	<p><i>(Acquisition of part of certain properties)</i></p> <p>This Article is identical to Article 26 of the Model Provisions. The Article applies in situations where the undertaker is seeking the compulsory acquisition of part, rather than all of the land.</p> <p>It sets out the procedure to be followed where the owner of the land may, if the part of the land cannot be taken without material detriment to the remainder (or in the case of a house without detriment to its amenity and convenience), require the undertaker to acquire the whole of the land. This Article makes express provision for the determination of disputes to be resolved by the Upper Tribunal (Lands Chamber).</p>
<p><b>Article 24</b></p>	<p><i>(Statutory authority to override easements and other rights)</i></p> <p>This Article is not a Model Provision, but it is included to clarify the position surrounding rights burdening the land required for the authorised development. The Article provides, for the avoidance of doubt, that by virtue of Section 158 of the Act, in carrying out or using the Project authorised by the Order and</p>

	<p>doing anything else authorised by the Order, the undertaker may interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support, or breach any restriction as to the user of the land arising by virtue of contract. It also provides that by virtue of Section 152 of the Act, compensation may be payable under Section 10 of the Compulsory Purchase Act 1965 for any such interference / breach. This approach has been used in Hinkley Point C Development Consent Order (SI 2013 No. 648).</p>
<p><b>Article 25</b> <i>(Article 23 of the DCO Model Provisions)</i></p>	<p><i>(Application of the Compulsory Purchase (Vesting Declarations) Act 1981)</i></p> <p>This Article follows Article 23 of the Model Provisions. It provides for the application of the Compulsory Purchase (Vesting Declarations) Act 1981, containing vesting procedures for land subject to compulsory purchase. It allows the undertaker to choose between the notice to treat procedure or the general vesting declaration procedure set out in the Compulsory Purchase (Vesting Declarations) Act 1981.</p>
<p><b>Article 26</b> <i>(Article 28 of the DCO Model Provisions)</i></p>	<p><i>(Temporary use of land for carrying out the authorised development )</i></p> <p>This Article follows Article 28 of the DCO Model Provisions and confers upon the undertaker a right to enter upon and take possession of land specified in Schedule 8 (land of which temporary possession may be taken) to construct those elements of the authorised development listed in that Schedule. Prior notice to owners and occupiers is required and the Article makes further provision for restoring land after such use and</p>

after compensation. This power would be used for elements of the authorised development where works such as pipelines or cables are to be installed in subsoil. After construction, the land is to be reinstated with the works remaining underground.

The Article deviates from the DCO Model Provisions in that it clarifies at paragraph (3) that the undertaker may remain in possession of land for longer than the stated one year period, to the extent that it is authorised to do so by the acquisition of rights over land or the creation of new rights over land, pursuant to Article 19 (compulsory acquisition of rights) of the draft Order. This addition may be included under Section 120(5)(c) of the Act because it is necessary and expedient to give full effect to paragraph (8) of the Article allowing the acquisition of rights over land of which temporary possession is taken. Precedent for this wording is found in Rookery South Development Consent Order (SI 2013 No. 680).

Under this Article, compensation is payable to owners and occupiers of the land who suffer loss or damage arising from the undertaker's exercise of this power. Article 26(7) of the Order has been amended to clarify that the compensation payable under this Article is compensation payable for injurious affection which would normally arise under Section 10 of the Compulsory Purchase Act 1965, but which arises instead under s152 of the Act.

Article 26(8) of the Order does not include reference to "acquisition of land limited to subsoil lying more than 9 metres beneath the surface" as this is not required by the Order.

In a modification to the Model Provisions, under Article 26(10) of the Order, the undertaker may exercise its powers under this

	<p>Article on more than one occasion. However, this modification clarifies the intended scope of this power, rather than widening the scope of the Model Provisions.</p>
<p><b>Article 27</b> <i>(Article 29 of the DCO Model Provisions)</i></p>	<p><i>(Temporary use of land for maintaining the authorised development)</i></p> <p>This Article reflects Article 29 of the Model Provisions. It is almost identical, save for Article 27(11), which states that the use is for UGS facilities, and for the extended maintenance period of 50 years.</p> <p>The Article provides for the undertaker to enter on and take temporary possession of any land within the Order limits for the purposes of the maintenance of any part of the authorised development.</p> <p>The power may only be exercised during the maintenance period, which is clearly defined to extend the lifetime of the Project (circa. 50 years). The exercise of this power is subject to giving owners and occupiers 28 days' notice. The temporary possession may only continue for so long as is reasonably necessary to carry out the works of maintenance in respect of the authorised development. As with Article 26 the exercise of this power is subject to a duty to restore the land and pay compensation.</p> <p>The power is required to facilitate the maintenance of the authorised development.</p>

<p><b>Article 28</b> <i>(Article 31 of the DCO Model Provisions)</i></p>	<p><i>(Statutory undertakers)</i></p> <p>This Article is based upon Article 31 of the Model Provisions, with some slight modifications.</p> <p>Article 28 (a) and (b) of the Order provides for the extinguishment of rights, as well as the repositioning of apparatus belonging to statutory undertakers shown on the land plans, and described in the Book of Reference. These are the same rights as detailed in the Model Provisions. However, wording additional to the DCO Model Provisions is included at 28(b) of the Order, to clarify that the undertaker may need to replace, renew, alter and supplement elements of the existing apparatus, rather than just remove or reposition these, as provided for in the DCO Model Provisions.</p> <p>The additional wording may be included under the Order because Sections 120(3) and (4), together with item 14 of part 1 of Chapter 5 of the Act, allow particular provision relating to the removal, disposal or re-siting of apparatus.</p> <p>Article 28 does not make reference to Article 31 (a) or (c) of the DCO Model Provisions, as the undertaker does not require powers to undertake this.</p>
<p><b>Article 29</b> <i>(Article 22 of the DCO Model Provisions)</i></p>	<p><i>(Private rights)</i></p> <p>This Article is based upon Article 22 of the Model Provisions, but has been modified so as to apply to all rights in land rather than only rights of way. This is following the recommendation in PINS advice note 15. This ensures that any other rights that may exist cannot prevent the implementation of the Project.</p>

	<p>The Article would extinguish all private rights over land subject to compulsory acquisition from the date of acquisition of land or on the date of entry, whichever is earlier. Provision is made that the extinguishment will not apply where the undertaker serves notice to this effect prior to acquiring, appropriating, entering or taking temporary possession of the land in question. The provision will also not apply where an agreement to this effect is made between the undertaker and the owner of land benefitting from the private rights.</p> <p>Article 29(4) of the Order makes provision for persons suffering loss as a result of the suspension of extinguishment of such private rights to be entitled to compensation.</p> <p>Article 29(2) of the Order differs from the Model Provisions, in that it references the “Order Limits” instead of “limits of land which may be acquired shown on the land plan.” This has been modified for clarity.</p> <p>Wording additional to the DCO Model Provisions is included in 29(3) of the Order. This clarifies that in respect of land that is temporarily possessed under Articles 26 and 27, those private rights that are inconsistent with the temporary possession are suspended and unenforceable, so long as the undertaker remains in lawful possession, and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.</p> <p>This Article is necessary to ensure that private rights do not prevent the implementation of the Project.</p>
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<p><b>Article 30</b> <i>(Article 27 of the DCO Model Provisions)</i></p>	<p><i>(Rights under or over streets)</i></p> <p>This Article is identical to Article 27 of the Model Provisions. It provides that the undertaker may use the subsoil under and airspace over a street required for the authorised development, without being required to acquire any part of the street or any easement or right in the street. Compensation provisions apply to the exercise of this power.</p>
<p><b>Article 31</b> <i>(Article 13 of Schedule 2 of the DCO Model Provisions relating to Railways)</i></p>	<p><i>(Public rights of way)</i></p> <p>The principle of this Article is based on the Model Provision for railways, although this has been greatly modified. Article 13(1) provides for the rights of way shown between two points on the street works and access plan, and as specified in Schedule 5, to be temporarily stopped up, altered or diverted.</p> <p>Article 31 (2) provides that the undertaker must first consult the local highway authority, whose consent may be subject to conditions and whose consent should not be unreasonably withheld.</p> <p>Article 31(3) provides that anyone with a private right of way who suffers loss by the suspension of this right will be entitled to compensation. Article 31(4) clarifies the meaning of the local highway authority under Section 329(1) of the Highways Act 1980.</p>



## Part 6 – Miscellaneous and General

<p><b>Article 32</b> <i>(Article 36 of the DCO Model Provisions)</i></p>	<p><i>(Operational land for the purposes of 1990 Act)</i></p> <p>This Article is identical to Article 36 of the Model Provisions and provides that for the purposes of Section 264(3) of the 1990 Act, the authorised development shall be treated as specific planning permission.</p>
<p><b>Article 33</b> <i>(Article 39 of the DCO Model Provisions)</i></p>	<p><i>(Felling or lopping of trees or shrubs)</i></p> <p>This reflects Article 39 of the Model Provisions. The Article has the effect of providing the undertaker power to fell or lop any tree or shrub for the purposes of preventing obstruction or interference with the authorised development, or in circumstances where a tree may pose a danger to persons using the authorised development. Provision is included for the undertaker to pay compensation for any loss or damage which may arise. The power is required to ensure the safe construction, operation and maintenance of the authorised development.</p> <p>The Article departs from the Model Provisions in that it allows the undertaker to fell or lop any tree or shrub. The addition of ‘shrub’ is required for the purposes of preventing obstruction or interference with the authorised development.</p> <p>This Article does not include the wording of “passengers” under Article 39 (1) (b) of the Model Provisions, as this is adequately covered with the term “persons”.</p>

	<p>Additional wording is inserted into Article 33(1) of the Order, in order to clarify that the felling or lopping of trees is pursuant to the requirements in Schedule 2.</p>
<p><b>Article 34</b> <i>(Article 50 of Schedule 2 of the DCO Model Provisions relating to Railways)</i></p>	<p><i>(Protective provisions)</i></p> <p>This Article follows Article 50 of Schedule 2 of the Model Provisions relating to railways. It gives effect to Schedule 9 of the Order (the protective provisions).</p>
<p><b>Article 35</b> <i>(Article 41 of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Certification of plans etc.)</i></p> <p>This Article follows Article 41 of the Model Provisions. It provides for copies of the Book of Reference (Doc ref. 4.3) the Order limits drawings nos.: 13-03-01/HOL/24/100-107 (Doc refs. 2.1.1 to 2.1.8), the land plans drawings nos.: 13-03-01/HOL/24/610-617 (Doc refs. 2.2.1- 2.2.8) the works plans drawing no.: 13-03-01/HOL/24/500-506 (Doc refs. 2.3.1 to 2.3.7) and 13-03-01/HOL/24/509-514) (Doc refs. 2.3.8 – 2.3.13) the street works and access plan (13-03-01/HOL/24/413) (Doc ref. 2.4.) and the Environmental Statement (Doc ref. 6.1-6.3) to be certified as a true copies. The Article omits reference to “any other plans or documents referred to in this Order.” This expands on the copies of documents referenced in the Model Provisions by referencing the particular documents, in order to clarify exactly which documents are required by the Secretary of State.</p> <p>Additional wording in the Order at Article 35 (1) states that the undertaker “must as soon as reasonably practicable” provide the copies of the documents to the “Secretary of State.”</p>

	<p>The Order also expands on the Model Provisions, by stating in Article 35 (2) that the plans or documents certified are the ones under “paragraph (1) of the Article”.</p>
<p><b>Article 36</b></p>	<p><i>(Application of the Hedgerows Regulations 1997)</i></p> <p>This Article does not follow the Model Provisions. It reflects Article 7 of the Walney Extension Offshore Wind Farm Order (SI 2014 No. 2950). Regulation 6 of the Hedgerows Regulations states that the removal of any hedgerow to which the regulations apply is permitted if it is required: “(e) for carrying out development for which planning permission has been granted or is deemed to have been granted”. The application is for a DCO, and therefore it is necessary to extend this power to the DCO, in order to facilitate works that cross hedgerows. The Article modifies the application of the Hedgerow Regulations 1997 to the authorised development, to permit the removal of any hedgerow to which the Regulations apply for the purpose of carrying out the authorised development.</p> <p>This provision relies on Section 120(5)(a) of the Act which permits a development consent order to apply, modify or exclude a statutory provision.</p>
<p><b>Article 37</b></p>	<p><i>(Procedure in relation to certain approvals etc..)</i></p> <p>This Article provides a procedure which applies to consents and approvals required in accordance with the Order. It does not apply to the approval of requirements which are addressed in Article 38.</p> <p>(Procedure in relation to certain approvals etc) is not a Model Provision. It would provide a mechanism for securing any</p>

	<p>consent or approval from a consenting body required by the provisions of the Order.</p> <p>Precedent is found in the Knottingley Power Project Development Consent Order (SI 2015 No. 680).</p>
<p><b>Article 38</b></p>	<p><i>(Appeals relating to decisions under requirements)</i></p> <p>This Article does not follow the Model Provisions. It would provide for a mechanism under which the undertaker could appeal to the Secretary of State to discharge matters under the requirements at Schedule 2 (requirements), if the local planning authority or highway authority (as relevant) refuse a request for approval, grants that approval subject to conditions, or does not make a decision within 16 weeks. This Article mirrors closely the wording of sub-Sections 78(1) and (2) of the 1990 Act (right to appeal against planning decisions and failure to take such decisions).</p> <p>Article 38(2) of the Order incorporates the same procedures for appeals under this Article as those relevant to appeals in existing legislation made in relation to decisions under planning conditions.</p> <p>CLG Guidance for local authorities states that a draft Order can allow scheme promoters to appeal local authority decisions on a subsequent approval as with the previous regimes. This Article is included in the draft Order as a supplementary provision under Section 120(5)(d) of the Act and its approach was accepted in the Rookery South Development Consent Order (SI 2013 No. 680).</p>

<p><b>Article 39</b> <i>(Article 35 of the DCO Model Provisions)</i></p>	<p><i>(Application of Landlord and Tenant Law)</i></p> <p>This Article is identical to Article 35 of the Model Provisions. Its effect is to prevent the operation of landlord and tenant law from prejudicing any agreement with any person for leasing the whole or part of the authorised development, or the right to operate the same, and any agreement for the construction, maintenance, use or operation of the authorised development, or any part of it entered into by the undertaker.</p>
<p><b>Article 40</b> <i>(Article 42 of the DCO Model Provisions)</i></p>	<p><i>(Arbitration)</i></p> <p>This Article is a general arbitration provision which reflects Article 42 of the Model Provisions. Its effect is to require any differences or disputes under the Order, unless separate provision is made, to be referred to a single arbitrator appointed either at the agreement of the parties, or appointed by the President of the Institution of Civil Engineers. The Order inserts the word ‘dispute’ at the start of the Article to further clarify the position.</p> <p>Wording additional to the Model Provision is included at the start of Article 40 of the Order, which states that the Article applies “without prejudice to Article 38”. This has been included as separate provision has been made under Article 38 to appeal.</p> <p>The Article is based on the Model Provision, with the insertion of the President of the Institution of Civil Engineers where an appropriate body is required.</p>

<p><b>Article 41</b></p>	<p><i>(Crown Land)</i></p> <p>This Article contains a saving for Crown Rights. It is not a Model Provision, but would protect the Crown’s position in relation to its own estates, rights, powers, privileges, authorities and exemptions and ensure that the Crown’s consent is required where any rights are to be acquired compulsorily as a result of granting the Order. It has been included as the works extend over the banks of the River Mersey.</p>
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## Schedules

3.2 Schedules 1 to 9 of the Order are summarised below.

### Schedule 1

<p><b>Schedule 1</b> <i>(Schedule A of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(authorised development)</i></p> <p>Schedule 1 specifies the NSIP and associated development. There are no ancillary works.</p>
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### Schedule 2

<p><b>Requirement 1</b> <i>(Requirement 2 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Time limits)</i></p> <p>This adopts requirement 2 of the DCO Model Provisions, with amendments for clarity. This requirement ensures the authorised development is not commenced after the expiration of five years from the date of the Order coming in to force.</p>
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<p><b>Requirement 2</b></p>	<p><i>(Authorised development to be carried out in accordance with matters approved under requirements)</i></p> <p>Requirement 2 sets out that the authorised development needs to be carried out in accordance with the plans and documents certified by the Secretary of State. The requirement also notes that any documents approved pursuant to the requirements themselves will need to be complied with. It is included for clarity to ensure that all details approved pursuant to a requirement are implemented in accordance with the matters approved.</p>
<p><b>Requirement 3</b></p>	<p><i>(Construction Environmental Management Plan)</i></p> <p>This requirement is not a Model Provision, although it does incorporate parts of several separate provisions. This requires the submission to the relevant planning authority of a Construction Environmental Management Plan ('CEMP') for each part of the authorised development before it is commenced. The CEMP must include Site Environmental Control Plans covering:</p> <ul style="list-style-type: none"> <li>• Surface and ground water management;</li> <li>• Soil management;</li> <li>• Sediment control;</li> <li>• Site waste management;</li> <li>• Biodiversity management;</li> <li>• Noise and vibration management and monitoring;</li> <li>• Air quality and dust management</li> </ul>

	<ul style="list-style-type: none"> <li>• Traffic management; and</li> <li>• Lighting.</li> </ul> <p>Paragraphs (2) and (3) ensure that the mitigation measures set out in the Environmental Statement will be secured and implemented. Paragraph (4) sets out in more detail the plans and programmes that are required to be included within the submitted CEMP. Paragraph (6) requires adherence to the Environment Agency’s pollution prevention guidance and limits construction hours (except for continuous operations).</p> <p>The CEMP is the primary vehicle for securing mitigation of the residual impacts of the construction of the authorised development.</p>
<p><b>Requirement 4</b></p>	<p><i>(Wellhead Compounds)</i></p> <p>This requirement is not from the DCO Model Provisions, but has been used in the Preesall Development Consent Order (SI 2015 No. 1561). It requires that details of the siting, size and finish (among other matters) are submitted and approved by the relevant planning authority prior to development being commenced. This requirement allows the relevant planning authority to exercise control over the details of the wellhead compounds authorised by the Order.</p>
<p><b>Requirement 5</b> <i>(Requirement 25 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Control of noise during operational phase)</i></p> <p>This is based on Requirement 25 (1) of the DCO Model Provisions. It requires the approval by the relevant planning authority of a written scheme of noise management for the</p>



	<p>operation of each part of the authorised development before it may be commenced.</p>
<p><b>Requirement 6</b> <i>(Articles 7 and 8 Article 2 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Landscaping)</i></p> <p>This requirement incorporates both requirement 7 and requirement 8 of Schedule 4 of the DCO Model Provisions with some minor amendments for clarity. It secures the landscaping proposals set out in the Environmental Statement through the submission of a Landscaping plan (containing certain specified details) for the approval of the relevant planning authority.</p> <p>The landscaping scheme submitted for approval must include:</p> <ul style="list-style-type: none"> <li>• Location, number, species, size and planning density of any proposed planting;</li> <li>• Cultivation and other operations to ensure plant establishment;</li> <li>• Proposed finished ground levels;</li> <li>• Hard surfacing materials;</li> <li>• Details of existing trees to be retained, with measures for their protection during the construction period; and</li> <li>• Implementation timetables for all landscaping works.</li> </ul> <p>Paragraph (2) requires that landscaping works then have to be carried out in accordance with this approved plan and to the timescales set out in that plan. Under paragraph (3), the requirement also specifies that if any tree or shrub dies or</p>

	<p>becomes seriously damaged or diseased within 5 years of planting it, then it must be replaced.</p>
<p><b>Requirement 7</b> <i>(Requirement 10 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Accesses to works)</i></p> <p>This adopts requirement 10 of Schedule 4 of the DCO Model Provisions, although it has a different title. It requires the approval of the relevant planning authority of written details of the siting, design and layout of any new permanent or temporary highways accesses. It also requires compliance with the approved details. The Order requirement does not make reference to 10(3) and 10(4) of the requirement in the Model Provisions, as this is not necessary.</p>
<p><b>Requirement 8</b> <i>(Requirement 22 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Construction traffic)</i></p> <p>This follows Requirement 22 (2) of the DCO Model Provisions in requiring notices to be erected and maintained throughout the period of construction. As the applicant will be submitting a s.106 agreement, then it is not necessary to include Requirement 22(1) of the DCO Model Provisions.</p>
<p><b>Requirement 9</b></p>	<p><i>(Limits on heavy goods vehicle movements)</i></p> <p>This requirement is not based on the Model Provisions. The requirement limits the number of HGV movements to and from the site to a maximum of 80 per day (40 in and 40 out). This limit is the 'worst case scenario' assessed in the Environmental Statement. This requirement requires the operator to keep records of HGV movements and submit them to the relevant planning authority every six months, or within 5 working days of a request by the relevant planning authority.</p>

<p><b>Requirement 10.</b></p>	<p><i>(Internal roads)</i></p> <p>This requirement is not based on the DCO Model Provisions. It requires that the access roads (comprised in numbered work 6 and 7) are to be kept metalled, drained and kept clear of debris throughout the construction and operation of the authorised development. This ensures the safe and effective operation of the access road.</p>
<p><b>Requirement 11</b> <i>(Requirement 11 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Public rights of way)</i></p> <p>This adopts requirement 11 (1) and (2) of the DCO Model Provisions. It requires the approval of the relevant planning authority of a plan and specification for the making up of an alternative right of way prior to the implementation of a part of the authorised development that would affect a right of way.</p>
<p><b>Requirement 12</b> <i>(Requirement 13 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Fencing and other means of enclosure)</i></p> <p>This requires the approval of the relevant planning authority of written details of permanent and temporary fencing for each part of the authorised development, prior to the commencement of that part. It requires that the construction sites must remain securely fenced at all times. It also requires the removal of temporary fencing at the end of construction and for any approved permanent fencing to be completed before the relevant part of the Project is brought into use.</p>
<p><b>Requirement 13</b> <i>(Requirement 14 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Ground and surface water and pollution prevention)</i></p> <p>Paragraph 14(1) of the requirements in the Order incorporate 14(1) and 14 (2) of the DCO Model Provisions. It requires the approval of the relevant planning authority - in consultation</p>

	<p>with the sewerage and drainage authority - of written details of surface and foul water drainage system for each part of the authorised development before that part is commenced.</p> <p>Paragraphs (2) (3) and (4) of the Order does not follow the Model Provisions. They have been developed to prevent pollution, and in order to comply with the requirements set out in the Environmental Statement.</p> <p>Paragraph 14 (2) requires the approval of the relevant planning authority, in consultation with the Environment Agency, of a scheme and programme for a diversion to a watercourse before any part of the authorised development involving such a diversion is commenced.</p> <p>Paragraph 14 (3) requires the undertaker to maintain ditches and other watercourses to ensure that the flow of water is not impaired throughout the construction, operation and decommissioning of the authorised development. Finally, paragraph 14 (4) requires that all oil, diesel and lubricants stored at the authorised development are kept in impermeable bunded areas.</p>
<p><b>Requirement 14</b> <i>(Requirement 16 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Archaeology)</i></p> <p>This requirement closely follows Requirement 16 of the DCO Model Provisions. It requires a written scheme for each of the areas of archaeological interest (as identified in the Environmental Statement), to be submitted and approved by the Local Planning Authority. The requirement in the Order differs from the Model Provisions in that the approval is sought by the Local Planning Authority, rather than the Commission. Paragraph 71 of the CLG guidance for local authorities considers</p>

	<p>that approval will be sought from the Local Planning Authority rather than the Commission.</p> <p>Paragraph 15 (2) states that the written scheme must include measures taken to protect, record or preserve any significant archaeological remains that are found. Paragraph 15 (3) of the Order requires that the undertaker must ensure that the person with responsibility for implementing the scheme is a suitably qualified archaeologist. Paragraph 15 (4) requires that it must be carried out in accordance with the approved archaeological scheme.</p>
<p><b>Requirement 15</b> <i>(Requirement 21 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(External lighting)</i></p> <p>This Requirement closely follows Requirement 21 of the DCO Model Provisions. It requires the operator to obtain the approval of the relevant planning authority, before the operation of the authorised development, of any permanent operational external lighting for use in works number 14 (the gas processing plant). Lighting of works number 14 must be installed and maintained in accordance with the approved scheme.</p> <p>Additional wording in the Order includes making specific reference to works number 14, as this is the area which requires permanent operational external lighting.</p> <p>The CEMP deals with construction lighting schemes, this requirement deals with operation lighting scheme for gas processing plant.</p>

<p><b>Requirement 16</b></p>	<p><i>(Restoration scheme)</i></p> <p>This requirement does not originate from the DCO Model Provisions, but it has been approved in the Preesall Development Consent Order (SI 2015 No. 1561). It requires that at the end of use of the authorised development, or within 49 years of the start of use, a scheme of restoration and aftercare of the authorised development shall be submitted in writing, for the approval of the relevant planning authority.</p> <p>The scheme must include:</p> <ul style="list-style-type: none"> <li>• Any proposed future uses for the authorised development site;</li> <li>• Details of structures and buildings to be demolished and retained;</li> <li>• Phasing of demolition and removal;</li> <li>• Details for the remediation of ponding; and</li> <li>• Details of restoration works and phasing thereof.</li> </ul> <p>Paragraph 16 (3) provides that the scheme must be implemented in full no later than 24 months after the date of the local planning authority’s approval.</p> <p>The requirement is essential for the sufficient and timely restoration of the site.</p>
<p><b>Requirement 17</b></p>	<p><i>(Decommissioning)</i></p> <p>This requirement does not originate from the DCO Model Provisions, however it has been approved in the Preesall Development Consent Order (SI 2015 No. 1561). It requires</p>

	<p>that, in circumstances where no gas is stored in any cavity for a period of 10 years following the completion of all solution mining comprised within that part of the authorised development, the undertaker must submit a scheme detailing the appropriate measures for the decommissioning of that cavity.</p> <p>Within 24 months of approval of the scheme the undertaker is required to implement the scheme in full. Paragraph 18 (3) states that following written approval of the relevant planning authority, the scheme and programme shall be implemented in full.</p>
<p><b>Requirement 18</b> <i>(Requirement 36 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Requirement for written approval)</i></p> <p>This follows requirement 36 of the DCO Model Provisions, with amendments for clarity. The requirement provides that the approval or agreement of the relevant planning authority, where required under a requirement, must be given in writing. The requirement also adds to the Model Provision, in that the approval must not be unreasonably withheld. This is in order to stop the approval being withheld without good reason.</p> <p>The requirement in the Order differs from the Model Provisions in that the approval is sought by the Local Planning Authority rather than the Commission. Paragraph 71 of the CLG guidance for local authorities considers that approval will be sought from the Local Planning Authority rather than the Commission.</p>
<p><b>Requirement 19</b> <i>(Requirement 37 of Schedule 4 of the DCO Model Provisions)</i></p>	<p><i>(Amendments to approved details)</i></p> <p>The requirement follows requirement 37 of the DCO Model Provisions. It sets out, for clarity, that where a requirement</p>

	<p>requires the authorised development to be carried out in accordance with details approved by the relevant planning authority, that the approved details include any amendments or variations that may subsequently be approved in writing by the relevant planning authority.</p> <p>The requirement in the Order differs from the Model Provisions in that the approval is sought by the Local Planning Authority rather than the Commission. Paragraph 71 of the CLG guidance for local authorities considers that approval will be sought from the Local Planning Authority rather than the Commission.</p>
<b>Requirement 20</b>	<p><i>(Changes approved by the relevant planning authority)</i></p> <p>The requirement does not follow the DCO Model Provisions. It sets out that where the requirements state ‘unless otherwise agreed in writing with the relevant planning authority’, the agreement must only be in relation to non-material changes where it can be proven that the agreement sought is unlikely to present any new or different effects from those assessed in the environmental statement.</p>
<b>Other Requirements</b>	<p>Requirements in the DCO Model Provisions which are not referred to above and not reflected in Schedule 2 have been omitted because they are not relevant to the Project.</p>

### Schedule 3

<p><b>Schedule 3</b> <i>(Schedule B of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Streets subject to street works)</i></p> <p>This Schedule sets out the two streets and the restricted byway subject to street works in accordance with Article 9.</p>
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#### Schedule 4

<b>Schedule 4</b>	<p><i>(Streets subject to alteration of layout)</i></p> <p>This Schedule sets out the two streets and the restricted byway subject to alteration of layout in accordance with Article 10.</p>
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#### Schedule 5

<b>Schedule 5</b> <i>(Schedule C of Schedule 1 of the DCO Model Provisions)</i>	<p><i>(Streets and rights of way to be temporarily stopped up)</i></p> <p>This Schedule sets out the streets which are to be subject to powers of temporary alteration, diversion, prohibition of use or restriction of use in accordance with Article 12.</p>
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#### Schedule 6

<b>Schedule 6</b> <i>(Schedule E of Schedule 1 of the DCO Model Provisions)</i>	<p><i>(Access to Works)</i></p> <p>This Schedule describes and identifies the new accesses to be constructed in accordance with Article 13.</p>
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#### Schedule 7

<b>Schedule 7</b>	<p><i>(Temporary closure and works in the canal)</i></p> <p>This Schedule identifies the areas of the canals that the undertaker may temporarily close, prohibit the use of or restrict the use of, for the purposes of carrying out the authorised development as provided for in Article 18.</p>
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## Schedule 8

<p><b>Schedule 8</b> <i>(Schedule G of Schedule 1 of the DCO Model Provisions)</i></p>	<p><i>(Land of which temporary possession may be taken)</i></p> <p>This Schedule describes the land which the undertaker may take temporary possession of for the carrying out of the authorised development in accordance with Article 26(1)(a)(i). Columns (1) and (2) of the Schedule identify the land that may be temporarily possessed for the purposes specified in column (3) relating to the works listed at column (4).</p>
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## Schedule 9

<p><b>Schedule 9</b> <i>(Schedule L of Schedule 2 of the DCO Model Provisions relating to railways)</i></p>	<p><i>(Protective Provisions)</i></p> <p>This Schedule sets out protective provisions for specified statutory undertakers who have been identified as having apparatus within the Order Limits. The Schedule is based on Schedule L of the DCO Model Provisions relating to railways.</p>
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