

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (OPERATION STACK)
SPECIAL DEVELOPMENT ORDER 2015

2015 No.1635

1. This explanatory memorandum has been prepared by the Secretary of State for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This instrument is a Special Development Order which grants planning permission, subject to limitations and conditions, for the temporary use of identified land at Manston Airport for the purpose of parking goods vehicles which have been diverted there under Operation Stack (an operation to relieve congestion on the M20 motorway in the event that significant numbers of vehicles are unable to use the cross-Channel ferry or Channel Tunnel train services) and ancillary temporary facilities, structures and services for this use.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Department regrets that it has not been possible to comply with the normal procedure for negative statutory instrument, whereby the instrument would not come into force earlier than 21 days after it is laid. This summer strikes and safety breaches in Calais have led to increased disruption on cross-Channel routes. This has led to Operation Stack being in place for 24 days between 23 June and 1 August, far above the average implementation of once a year between 2011 and 2014. This has had serious knock-on effects for the local area and the estimated costs of policing and welfare in mid-July were £700,000. An urgent temporary solution has been found in the use of land at Manston Airport to station goods vehicles during Operation Stack.
- 3.2 The site is currently operating under the temporary planning permission granted by Class B of Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015 / 596) (“GPDO”). That permission allows use of land for no more than 28 days in any calendar year. Consequently the temporary use of the site at Manston must cease at the end of 1 September 2015 unless a new permission is granted. There is an urgent need to secure continued use of the land at Manston Airport (on a temporary basis) beyond that date and this is achieved by this Order. Prior to making the Order the Department has had to consider the potential impacts of the proposed development and undertake targeted consultation with relevant stakeholders. Given the urgent need to ensure the site has planning permission

to continue this temporary Operation Stack relief and the detailed work needed before the Order could be made we consider the breach of the 21 day rule for this Order is justified.

4. Legislative Context

- 4.1 Sections 59 and 60 of the Town and Country Planning Act 1990 give the Secretary of State the power to grant planning permission in relation to specific sites under a special development order (“SDO”). Such a planning permission may be made unconditionally or subject to such conditions or limitations as may be specified.

5. Territorial Extent and Application

- 5.1 This instrument only applies to land in England identified in the Order, namely land at Manston Airport (Stone Hill Park), Kent.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Operation Stack is a co-ordinated multi-agency response to situations where the capacity of the Port of Dover and/or Channel Tunnel becomes restricted. It involves closing sections of the M20 motorway to hold freight traffic in a number of phases and locations within the Port / Tunnel approach and along the M20 motorway. Since 23 June 2015 it has been in place for a total of 24 days, as compared with a total of only 4 occasions between 2010-14. There have been significant impacts on the local economy, tourism, haulage industry and policing and welfare costs.
- 7.2 The Government has decided there is an urgent need to provide an alternative solution to reduce the impact on local communities, on the welfare of drivers and on the economy caused by holding freight vehicles on the motorway under Operation Stack. The Manston Airport site has been identified as an appropriate temporary site to allow authorities to divert freight vehicles under Operation Stack to a temporary holding area. The site provides significant capacity, allows for control and management of the traffic flow, opportunities for separation of Port and Tunnel traffic and has the potential to ease congestion on the M20 motorway. It would also enable the provision of basic amenities for drivers including toilets, washing facilities and food and drink. Since 5 August 2015, the site has been operating under a planning permission for temporary use of land granted under the GPDO, but this temporary use is restricted to 28 days. This expires at the end of 1 September 2015.
- 7.3 The Government considers it is important there is no gap between the end of the permission granted by the GPDO and the new permission granted by the Order. We considered that the most expedient action was to make a Special

Development Order granting planning permission for a temporary period. The Order grants permission for 9 months, subject to a number of conditions and limitations, for use of the site for the purposes of stationing goods vehicles in relation to Operation Stack. Without the Special Development Order, if Operation Stack is invoked on or after 2 September 2015 the operation would have to revert to holding freight vehicles on the M20 motorway causing further very significant disruption to local communities and compromising the welfare of drivers and further affecting the economy.

- 7.4 Planning permission under the Order is granted for the use of the land identified on the map referred to in the Order, namely the land comprising the runway, adjoining hard surfaced apron areas and identified access and exit routes on the site; for the use of the Air Traffic Control Tower; and the installation and siting of temporary facilities, services, structures and infrastructure that are ancillary to this use.
- 7.5 In considering the proposed development at this site, the Department has carried out targeted consultation with stakeholders to identify the potential impacts of the development. This has included direct engagement with the Environment Agency, Natural England, Historic England, the Highways Authority (Kent County Council) and the Local Planning Authority (Thanet District Council). In order to mitigate against potential impacts the Order grants planning permission for such use subject to a number of conditions and limitations. The Order does not permit:
- The use of the land for the stationing of goods vehicles otherwise than for the purposes of Operation Stack;
 - the use of the land for stationing of goods vehicles otherwise than on areas of hard standing;
 - the use of the land for the refuelling and unloading of goods vehicles;
 - the provision on the land of any structure, works, plant, or machinery otherwise than on areas of hard standing;
 - the provision on the land of any structure, works, plant or machinery which exceeds 4 metres in height;
 - the use of any building (other than the air traffic control tower or any structure brought on to the land on or after 5th August 2015) on the land.

The Order is subject to the following conditions:

- any hard standing must be kept in good repair and any defects in the hard standing which may allow surface water or other liquids to penetrate beneath the hard standing must be repaired, so the hard standing is impermeable, as soon as practicable;
- the surface and foul water drainage systems must be kept in good repair and any defects or blockages to the system must be repaired or removed as soon as practicable;
- a plan identifying the foul water sewers and surface water drainage system, including the location of access points to deploy emergency stop valves, must be kept on the land at all times; and

- any artificial lighting must be installed no closer than 10 metres from the boundary of the land and must be arranged so the main beam angle of each installation is directed downward so as to minimise light spill.

- 7.6 In addition the Department recognises the important part played by cross-agency plans to manage the highways impacts of Operation Stack when it is in force, including impacts at the entrance and exit to the site permitted by this Order. Furthermore, the role of the Strategic Coordination Group in liaising with relevant stakeholders to ensure relevant information is communicated, including to the local authority who is a member of the group.
- 7.7 The area of land to which this order applies is shown on a map, a copy of which is available for inspection at the offices of the Secretary of State for Communities and Local Government and another copy at the offices of Thanet District Council, Cecil Street, Margate, Kent, CT9 1XZ.
- 7.8 The planning permission granted by this Order is temporary and the use shall cease at the end of 1 June 2016. The land should be restored to its condition before the development took place, including removal of all structures, works, plant or machinery brought onto the land in connection with the use as soon as practicable.

8. Consultation outcome

- 8.1 Given the urgent timetable for development of this policy there has been no opportunity for a formal public consultation on this Special Development Order. The Department (and the Department for Transport) have consulted Highways England, Kent Police, Kent County Council, The Environment Agency, Natural England, Historic England and Thanet District Council in relation to the use of the land.

9. Guidance

- 9.1 Not relevant.

10. Impact

- 10.1 There is no impact on business, charities or the voluntary bodies arising from the granting of planning permission by the Order. An impact assessment is therefore not required.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 The planning permission granted by the Order ceases on 1 June 2016 and consequently it is not necessary to include a review provision in the Order.

13. Contact

- 13.1 Owen Neal at the Department for communities and Local Government Tel: 0303 4444412 or email: owen.neal@communities.gsi.gov.uk can answer any queries regarding the instrument.