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STATUTORY INSTRUMENTS

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**2020 No. 528**

**The M42 Junction 6 Development Consent Order 2020**

**PART 2**

**PRINCIPAL POWERS**

**Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

**Maintenance of authorised development**

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

**Maintenance of drainage works**

5.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(1).

**Limits of deviation**

6.—(1) In carrying out the authorised development the undertaker may, so far as the undertaker considers it necessary or convenient—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans;
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections—
  - (i) in respect of the construction of a new Solihull Road Overbridge referred to in Work No. 3, to a maximum of 1.5 metres upwards or downwards; and
  - (ii) in respect of any other work comprised in the authorised development, to a maximum of 0.5 metres upwards or downwards.

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(1) 1991 c. 59. The definition of “drainage” was substituted by section 100(2) of the Environment Act 1995 (c. 25).

(2) The maximum limits of deviation set out in paragraph (1) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects from those reported in the environmental statement.

### **Benefit of Order**

7.—(1) Subject to paragraph (2) and article 8 (consent to transfer benefit of Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Consent to transfer benefit of Order**

8.—(1) Subject to paragraph (4), the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the grantee”) for a period agreed between the undertaker and the grantee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), includes references to the transferee or the grantee.

(3) The exercise by any person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply by or under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Solihull Metropolitan Borough Council for the purposes of undertaking Works Nos. 3, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 34, 35, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54;
- (b) Cadent Gas Limited (company number 10080864, whose registered office is at Ashbrook Court Prologis Park, Central Boulevard, Coventry CV7 8PE) (or a related subsidiary company) for the purposes of undertaking Works Nos. 55, 56, 57, 58, 59, 60 and 61;
- (c) Severn Trent Water Limited (company number 02366686, whose registered office is at Severn Trent Centre, 2 St John's Street, Coventry CV1 2LZ) for the purposes of undertaking Works Nos. 62 and 63;
- (d) Western Power Distribution Public Limited Company (company number 09223384, whose registered office is at Avonbank, Feeder Road, Bristol, Avon BS2 0TB) (or a related subsidiary company) for the purposes of undertaking Works Nos. 64 and 65; and
- (e) Esso Petroleum Company, Limited (company number 00026538, whose registered office is at Ermyn House, Ermyn Way, Leatherhead, Surrey KT22 8UX) for the purposes of undertaking Work No. 66.

### **Application of the 1990 Act**

9.—(1) This article applies where the land is used for the temporary construction works.

(2) Where this article applies, section 57(2) of the 1990 Act (planning permission required for development) applies as if the development consent granted by this Order were planning permission granted for a limited period.

### **Application of the Community Infrastructure Levy Regulations 2010**

**10.**—(1) The Community Infrastructure Levy Regulations 2010(2) apply to the authorised development as if regulation 5(2) of those Regulations (meaning of “planning permission”) referred to development consent which is deemed to be granted for a limited period by an order made under section 114(1)(a) of the 2008 Act (grant or refusal of development consent) rather than to planning permission which is granted for a limited period.

(2) Development consent is deemed to be granted for a limited period for the temporary construction works and any other temporary buildings or works authorised by this Order.

### **Planning permission**

**11.** If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.