
STATUTORY INSTRUMENTS

2020 No. 556

The A63 (Castle Street Improvement, Hull) Development Consent Order 2020

PART 4

SUPPLEMENTAL POWERS

Protective work to buildings

18.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient

to carry out the protective works or to enter the building or land to be referred to arbitration under article 43 (arbitration).

(7) Where the proposed protective works would, but for the provisions of this Order, require consent under section 8 (authorisation of works: listed building consent) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ^{M1} (other than in respect of the buildings identified in Work No.30 of Schedule 1), the undertaker may not serve a notice under paragraph (5(a) until a description of the proposed protective works has been submitted to and approved in writing by the Secretary of State following consultation with—

- (a) the relevant planning authority; and
- (b) Historic England (if Historic England would have been required to be notified of the application for consent under section 8 by a direction given under section 15(5) of that Act) ^{M2}.

(8) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(9) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(10) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 ^{M3} (compensation in case where no right to claim in nuisance) of the 2008 Act.

(11) Any compensation payable under paragraph (8) or (9) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Commencement Information

- II** Art. 18 in force at 18.6.2020, see [art. 1](#)
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Marginal Citations

- M1** [1990 c. 9](#). Section 8 was modified in relation to buildings in conservation areas by [S.I. 1990/1519](#).
- M2** See the Arrangements for Handling Heritage Applications – Notification to Historic England and National Amenity Societies and the Secretary of State (England) Direction 2015.
- M3** [Section 152](#) was amended by [S.I. 2009/1307](#).

Status:

Point in time view as at 18/06/2020. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the The A63 (Castle Street Improvement, Hull) Development Consent Order 2020, Section 18.