
STATUTORY INSTRUMENTS

2022 No. 573

The M25 Junction 28 Development Consent Order 2022

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.

(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).

Planning permission

6. If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

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

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

Limits of deviation

7.—(1) In carrying out the authorised development the undertaker may—

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

- (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) subject to paragraphs (c) and (d), deviate vertically from the levels of the authorised development shown on the engineering drawings and sections up to a maximum of 1 metre upwards or downwards;
- (c) in respect of those parts of Work No. 6 situated between Duck Wood bridge and Grove bridge, deviate vertically from the levels of the authorised development shown on the engineering drawings and sections up to a maximum of 2 metres upwards or downwards;
- (d) in respect of Work No. 18 deviate vertically from the levels of the authorised development shown on the engineering drawings and sections up to a maximum of 1 metre upwards only,

except that these maximum limits of vertical deviation 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 in comparison with those reported in the environmental statement.

(2) Part 2 (procedure for discharge of requirements) of Schedule 2 (requirements) applies to an application to the Secretary of State for certification under paragraph (1) as though it were an approval required by a requirement under that Schedule.

Benefit of Order

8.—(1) Subject to paragraph (2) and article 9 (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 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

9.—(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 a 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 under this Order if those benefits or rights were exercised by the undertaker.

(4) If the benefit of the provisions of this Order relating to compulsory acquisition is transferred or granted to a transferee or grantee pursuant to this article and the transferee or grantee exercises those powers then the undertaker alone is liable for any compensation that is payable to another party as a consequence of the exercise of those powers by the transferee or grantee.

(5) 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) Cadent (or a related subsidiary company) for the purposes of Work No. 29;

- (b) UKPN (or a related subsidiary company) for the purposes of Work No. 30; or
- (c) the Environment Agency for the purposes of Work Nos. 23A, 23B, 23C and 23D.