
STATUTORY INSTRUMENTS

2022 No. 922

The Manston Airport 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 to be carried out within the Order limits.

(2) Any enactment applying to land within, adjoining or sharing a common boundary with 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—

- (a) construct each work only within its relevant work limits shown on the works plans;
- (b) deviate vertically downwards from the levels of the authorised development shown on the engineering drawings and sections to any extent except that any deviation to a point below existing ground level must be approved in writing by the Secretary of State in consultation with the Environment Agency and Southern Water; and
- (c) deviate vertically upwards from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 2 metres except in relation to the parts of the authorised development referred to in column (1) of the table below, where the maximum height for each such part is set out in the corresponding entry in column (2) of that table—

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

| <i>(1)</i> <i>Building or Structure</i> | <i>(2)</i> <i>Maximum Height (above ordnance datum)</i> |
|---|--|
| Cargo facilities constructed as part of Work No.1 | 67.3 metres |
| Business jet hangar constructed as part of Work No.2 | 66.1 metres |
| Fixed base operation hangars constructed as part of Work No.2 | 66.2 metres |
| Air traffic control tower constructed as part of Work No.3 | 74.0 metres |
| Radar tower constructed as part of Work No.4 | 74.0 metres |
| Terminal building constructed as part of Work No.12 | 59.6 metres |
| Fire station constructed as part of Work No.13 | 60.1 metres |
| Gatehouse constructed as part of Work No.14 | 53.2 metres |
| Gatehouse gantry constructed as part of Work No.14 | 57.2 metres |
| Commercial buildings constructed as part of Work No.15 | 66.5 metres |
| Commercial buildings constructed as part of Work No.16 | 64.2 metres |
| Commercial buildings constructed as part of Work No.17 | 64.5 metres |
| Aircraft recycling hangar constructed as part of Work No.18 | 72.8 metres |
| Fuel farm tanks constructed as part of Work No.19 | 51.0 metres |

(2) The 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, Southern Water and the Environment Agency, certifies accordingly that a deviation in excess of these limits does not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) In any discrepancy in any heights cited in this article and heights cited elsewhere in this Order, notably in Schedule 1, then the lower of the two is the maximum height permitted.

(4) The authorised development may not deviate within the limits of deviation specified in this article if the deviation would be likely to harm heritage assets of national importance and their settings that are considered worthy of conservation by the relevant planning authority, Kent County Council and Historic England as informed by the further assessment required by requirement 3(3)(a).

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 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 lessee”) for a period agreed between the undertaker and the lessee 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), include references to the transferee or the lessee.

(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) 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 Kent County Council for the purposes of undertaking Work Nos. 25, 26, 27, 28, 29, 30, 31 and 32.

Guarantees in respect of payment of compensation, etc.

9.—(1) The authorised development must not be commenced, and the undertaker must not exercise the powers in articles 19 to 33, until—

- (a) subject to paragraph (3), security of £13.1 million has been provided in respect of the liabilities of the undertaker—
 - (i) to pay compensation to landowners in connection with the acquisition of their land or of rights over their land by the undertaker exercising its powers under Part 5 of this Order; and
 - (ii) to pay noise insulation costs and relocation costs as required by requirement 9 of Schedule 2; and
- (b) the Secretary of State has approved the security in writing.

(2) The security referred to in paragraph (1) may include, without limitation, any one or more of the following—

- (a) the deposit of a cash sum;
- (b) a payment into court;
- (c) an escrow account;
- (d) a bond provided by a financial institution;
- (e) an insurance policy;
- (f) a guarantee by a parent company or companies of the undertaker;
- (g) a guarantee by a person of a sufficient financial standing (other than the undertaker).

(3) The Secretary of State is to have no liability to pay compensation in respect of the compulsory acquisition of land or otherwise under this Order.