
STATUTORY INSTRUMENTS

2024 No. 752

The M3 Junction 9 Development Consent Order 2024

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

5.—(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

6. 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.

Planning permission

7. 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,

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

8. In carrying out the authorised development the undertaker may—

- (a) Subject to paragraphs (b), (c) and (d), 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) in respect of Work Nos. 1(i), 1(l), 1(k), 3(b), 8, 9(c), 9(d), 11, 30, 33, 42, between points A and B, C and D, G and H and I and L only, as shown on the works plans, deviate laterally from the lines or situations of the authorised development shown on the works plans to a maximum of 2.0 metres;
- (c) in respect of Work Nos. 1(j) and 1(m) as shown on the works plans, deviate laterally from the lines or situations of the authorised development shown on the works plans to a maximum of 5.0 metres;

- (d) deviate vertically from the levels of the authorised development shown on the engineering and structural drawings and sections—
- (i) to a maximum of 1 metre upwards or downwards in respect of the construction of the gyratory northern overbridge (work number 27), gyratory southern overbridge (work number 28), A34 southbound underpass (work number 13), A33 underpass (work number 14), attenuation basin (work numbers 1(j) and 1(m)), M3 southern bridge portal gantry (work number 36) and bridleway (work number 9);
 - (ii) to a maximum of 0.75 metres upwards or downwards in respect of the construction of the retaining walls (work numbers 2(d), 12(a), 12(c), 31(a), 32(c), 32(d)), subways (work numbers 2(e), 24(a), 24(d), 33(a)), A34 footway/cycleway overbridge (work number 4) and gyratory (work number 29);
 - (iii) in respect of any other work comprised in the authorised development, to a maximum of 0.5 metres upwards or downwards,

except that those maximum limits of 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 and the local highway authority, certifies accordingly, that a deviation in excess of those limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Benefit of Order

9.—(1) Subject to article 10 (consent to transfer benefit of Order) and paragraph (2), 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

10.—(1) 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) If the benefit of the provisions of this Order relating to compulsory acquisition is transferred or granted to a transferee or lessee pursuant to this article and the transferee or lessee 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 lessee.

(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) Scottish and Southern Energy Power Distribution Limited (company number SC213459, whose registered office is at Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ) for the purposes of undertaking Work Nos. 21 and 35;
- (b) Southern Gas Networks plc (company number 05167021, whose registered office is at St Lawrence House, Station Approach, Horley, Surrey, RH6 9HJ) for the purposes of undertaking Work No. 20;
- (c) Southern Water Limited (company number 02366620, whose registered office is at Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX) for the purposes of undertaking Work No. 5; or
- (d) Openreach Limited (company number 10690039, whose registered office is at Kelvin House, 123 Judd Street, London, WC1H 9NP) for the purposes of undertaking Work No. 26.