
STATUTORY INSTRUMENTS

2016 No. 17

**The East Midlands Gateway Rail Freight
Interchange and Highway Order 2016**

PART 2

PRINCIPAL POWERS

Development consent granted by the Order

3.—(1) The undertaker is granted development consent for the authorised development to be carried out subject to the provisions of the Order within the Order limits and subject to the requirements.

(2) Nothing in this Order prevents the carrying out of archaeological investigations (under requirement 13(1)), investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or erection of any temporary means of enclosure and the temporary display of site notices or advertisement immediately upon this Order coming into force.

Parameters of authorised development

4. The authorised development is to be carried out within the parameters shown and described on the parameters plans and in carrying out the authorised development the undertaker may—

- (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) in respect of the highway works deviate vertically from the levels shown on the regulation 6(2) plans to any extent not exceeding 1.5 metres upwards or downwards;
- (c) in respect of the railway works comprised in Works Nos. 1 and 2 deviate vertically from the levels shown on the regulation 6(2) plans to any extent not exceeding 1.5 metres upwards or 2.5 metres downwards; and
- (d) in respect of any boundary between the areas of two numbered works deviate laterally by 20 metres either side of the boundary as shown on the works plans.

Authorisation of use

5.—(1) Subject to the provisions of this Order including the requirements, the undertaker and any persons authorised by the undertaker may operate and use that part of the authorised development comprised in Works Nos. 1 to 6 inclusive for the purposes of a rail freight terminal and warehousing and any purposes ancillary to those purposes.

(2) It does not constitute a breach of the terms of this Order, if, following the coming into force of this Order, any development, or any part of a development, is carried out or used within the Order limits under planning permission granted under the 1990 Act.

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.

Benefit of Order

7.—(1) Roxhill Developments Group Limited, Roxhill Developments Limited and Roxhill (Kegworth) Limited have the sole benefit of the provisions of Part 5 (powers of acquisition) unless the Secretary of State consents to the transfer of the benefit of those provisions.

(2) Roxhill Developments Group Limited, Roxhill Developments Limited and Roxhill (Kegworth) Limited have the sole benefit of the powers conferred by this Order to carry out the highway works in accordance with the provisions of Schedule 19 (for the protection of Highways England) and Schedule 20 (for the protection of Leicestershire County Council as highway authority) unless the Secretary of State consents to the transfer of the benefit of those provisions.

Application and modification of legislative provisions

8.—(1) Where an application is made to the local planning authority, relevant highway authority, Environment Agency, lead local flood authority or the approving body under Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010(1) for any consent, agreement or approval required by a requirement, the following provisions apply, so far as they relate to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of planning permission—

- (a) sections 78 (right of appeal in relation to planning decisions) and 79 (determination of appeals) of the 1990 Act(2); and
- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application, and any references to “local planning authority” for the purposes of this provision is replaced by “the local planning authority or other authority from whom a consent, agreement or approval is required”.

(3) Regulation 4 (requirement for consent) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(3) does not apply to any advertisement erected in the location and in accordance with the parameters shown on the parameters plans as S1 and S2.

(4) Paragraphs (1) to (3) only apply in so far as those provisions are not inconsistent with the 2009 EIA Regulations and any orders, rules or regulations made under the 2008 Act.

(1) 2010 c. 29. Schedule 3 was amended by sections 21(3) and 88 of the Water Act 2014 (c. 21), S.I. 2012/1659 and S.I. 2013/755. Schedule 3 is to come into force on a date to be appointed.

(2) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34); section 43(2) of the Planning and Compulsory Act 2004 (c. 5); paragraphs 1 and 3 of Schedule 10, and paragraphs 1 and 2 of Schedule 11, to the Planning Act 2008 (c. 29); section 123(1) and (3) of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011 (c. 20); and paragraphs 1 and 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27). Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34); and paragraphs 1 and 4 of Schedule 10 to the Planning Act 2008 (c. 29).

(3) S1 2007/783, amended by S.I. 2007/1739, S.I. 2011/2057, S.I. 2011/3058, S.I. 2012/2372 and S.I. 2013/2114.