

**EXPLANATORY MEMORANDUM TO**  
**THE TOWN AND COUNTRY PLANNING (MANSTON AIRPORT) SPECIAL**  
**DEVELOPMENT ORDER 2019**

**2019 No. 86**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This Order augments the planning permission for Manston Airport originally granted in 2015 (as amended in 2016 and 2017) and extends it so that it will now expire on 31 December 2020. It also extends the scale and scope of use of the airfield to act as a contingency for the stationing, transit and processing of goods vehicles as a key component of the response to potential traffic congestion caused by disruption to cross channel services at the Port of Dover.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 The Department regrets that it has not been possible to comply with the normal procedure for negative statutory instruments, whereby the instrument would not come into force earlier than 21 days after it is laid.
- 3.2 This reflects, however, the rapidly moving work on the capacity requirements for goods vehicle holding in Kent and the infrastructure options at Manston Airport. Moreover, prior to making the Order, the Department has had to undertake a range of environmental and other analysis before it could consider the potential impact of the proposed expanded development and undertake targeted consultation with relevant stakeholders. The Department also had to obtain sufficiently robust modelling of likely traffic flows to justify the extension of capacity. Given the urgent need to ensure the site has planning permission to provide this expanded use in time for preparatory works to be completed prior to the UK's exit from the EU, taken with the detailed work needed before the Order could be made, we consider the breach of the 21-day rule for this Order is justified.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.3 As the instrument is subject to negative resolution procedure, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is the land identified in the Order at the Manston Airport site, Manston Road, Kent

## **5. European Convention on Human Rights**

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

6.1 Sections 59 and 60 of the Town and Country Planning Act 1990 give the Secretary of State the power to grant planning permission in relation to specific sites under a special development order (“SDO”). Such planning permission may be made unconditionally or subject to such conditions or limitations as may be specified.

## **7. Policy background**

7.1 Operation Stack is a co-ordinated multi-agency response to situations when the capacity of the Port of Dover and/or Channel Tunnel becomes restricted. It involves closing sections of the M20 motorway to hold freight traffic in several phases and locations within the Port and Tunnel approach and along the M20 motorway.

7.2 In 2015, Operation Stack was called for a total of 24 days, with Stage 3 of Operation Stack (where parts of the London-bound M20 are used to store goods vehicles) being implemented for the first time. The unprecedented duration of this disruption and the closure of the London-bound carriageway led to considerable congestion on the roads around Kent. This had consequential impacts on the local economy, tourism and the haulage industry. There were costs associated with policing and managing the disruption as well as the costs of providing welfare for goods vehicle drivers.

7.3 To reduce the disruption caused by Operation Stack, the Government sought alternative locations for goods vehicles to park in the longer term, as an alternative to Operation Stack, and particularly Stage 3. The disused Manston Airport was identified as the only suitable location in Kent as an alternative, capable of holding large numbers of goods vehicles. Since September 2015, the site has been subject to planning permission granted through an SDO for this purpose and, following this, an extension in 2017, which currently expires on 31 December 2019. To date, the facility of Manston Airport has not been used for Operation Stack purposes but the Government considers it as important to have it available as a contingency until the longer-term solution is in place.

7.4 The Department committed to develop and implement an interim solution (Brock) by March 2019 to allow non-port traffic to continue to use the M20 in both directions when goods vehicles are stored on the coast-bound carriageway. Manston Airport remains a key component of this operation. Whilst Operation Brock is designed to mitigate all potential disruption to the Port including fires, severe weather and other issues, this existing role would also form part of acting as a contingency to manage any disruption that may occur during the UK leaving the European Union. To ensure that all possible scenarios have been accounted for, the Department has prepared the M26 to act as a back stop for holding lorries and proposes to undertake some temporary improvements at the Manston site that require a new SDO.

7.5 This SDO augments the Town and Country Planning (Operation Stack) Special Development Order 2015 (as amended in 2016 and 2017). It grants planning

permission until 31 December 2020, subject to limitations and conditions. This permission is granted for development of land on the Manston Airport site for the stationing, transit and processing of goods vehicles and the use of the land for repairs to goods vehicles where, pursuant to s69(1) of the Road Traffic Act 1988, a vehicle is declared unroadworthy by a vehicle examiner. It also permits the provision of other temporary structures including those needed to provide lighting; electricity for refrigeration goods vehicles; and other facilities. It permits the use of buildings on the site for the provision of improved welfare facilities and services so that drivers do not need to leave the site. The installation of temporary hard standing is also permitted in the area of land specified as area “B” on the map (see 7.12). Works to widen the main exit to improve traffic flow from the site are permitted, as are works to resurface and repair hard standing where surveys deem this necessary. Finally, this SDO permits the parking of non-goods vehicles associated with use of the site in the existing car park adjacent to the passenger terminal.

- 7.6 The limitations are: only goods vehicles that are directed by site officials to be stationed on the site may be so stationed; goods vehicles may only be stationed in the areas of hard standing shaded on the map; no goods vehicle may be refueled; and no goods vehicle may be unloaded unless it is incidental to the works permitted to take place at the site or the operation of buildings, structures, plant, machinery and facilities on the site. Furthermore, unless the approval of the Secretary of State has been obtained, no goods vehicles may carry any, dangerous goods loads exceeding permitted quantities, or dangerous goods loads that require stabilization through temperature control, such goods being identified in a dangerous goods management plan. Any vehicles carrying dangerous goods loads that are identified in the dangerous goods management plan as requiring isolation must be situated in area “A” on the map and subject to the provisions set out in that plan.
- 7.7 Live animals, explosives, polymerizing substances, infectious substances, radioactive material and high consequence dangerous goods are not permitted in any circumstances.
- 7.8 General conditions require that the hard standing, foul and surface water drainage systems, fire hydrants and emergency water supply on the land are to be kept in good repair with defects to be remedied as soon as practicable; and that a plan identifying the sewers and drainage systems be kept on the land at all times. Any artificial lighting installed must be placed no closer than 10 metres from the boundary of the land and is arranged so the light is directed downward and away from the boundary to minimise light spill. In addition, refrigeration heavy goods vehicles are required to use a dedicated electrical supply on the site. Moreover, buildings identified by an ecology report as being used by protected species as breeding, resting or sheltering places and development within 20 metres of a point identified as being used by such animals may, similarly, not be developed. In both cases, this restriction can only be lifted if a subsequent survey advises that the location is no longer used.
- 7.9 The stationing of goods vehicles on the land after 29 March 2019 is limited to a maximum of 305,505 vehicle movements per calendar year. This is to operate within environmental limits in line with the recommendations of the environmental and habitat assessments that have been carried out to inform this Order. An archaeologist appointed by the Secretary of State must also oversee the installation of the temporary hard standing and be able to record items of interest and finds. Furthermore, cesspits must be emptied no less than once a month and temporary structures collecting

sewage daily. If the High-Resolution Direction Finder (HRDF) system at the site is operational, goods vehicles may only be stationed within 120 metres of it, if that is permitted by a management plan agreed by the Department for Transport, Ministry of Defence and Civil Aviation Authority that safeguards the HRDF's operation.

- 7.10 Pre-commencement conditions must be complied with before the land can be used for the stationing of vehicles. Ecological surveys must be completed before any buildings on the site can be used for the development permitted by this Order and works widening the main exit must be completed. Furthermore, surveys must be completed of foul and surface water drainage as well as permanent hard standing, with any defects being repaired and drainage cleared. Fire hydrant and emergency water supplies must also be inspected and tested, and any defects detected being remedied. Copies of rules, policies and plans relating to the use of the site must also be approved by the Secretary of State.
- 7.11 Before the temporary hard standing can be installed in area "B" on the map, specifications relating to its surface construction and drainage must be approved by the Secretary of State. Surveys for unexploded ordnance and archaeology must also take place. Moreover, prior to the removal or disturbance of the Y-shaped dispersal pads currently located in area "B", they should be recorded in accordance with Historic England's technical guidance or alternative best practice
- 7.12 The area of land to which this order applies is shown on a map, a copy of which is available for inspection between 10am and 4pm at the offices of the Department for Transport, 33 Horseferry Road, London, SW1P 4DR, and another copy at the offices of Thanet District Council, Cecil Street, Margate, Kent, CT9 1XZ.
- 7.13 The planning permission granted by this Order is temporary and the use will cease at the end of 31 December 2020. With the exception to any repairs to permanent hard standing, buildings, facilities, drainage and widening of the main exit, the land must be restored to its condition before the date of the Order coming into force; ie, 24 January 2019. This includes removal of all structures, works, plants or machinery brought onto the land relating to the use.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 The Department does not intend to consolidate the 2015 Order.

## **10. Consultation outcome**

- 10.1 The then Department for Communities and Local Government consulted relevant stakeholders on the use of the land before the 2015 Order was made and they were consulted again prior to the extension of the Order in 2017.
- 10.2 The Environment Agency, Natural England, Historic England, Marine Management Organisation, Kent Fire and Rescue Service, Thanet District Council (local planning authority), Dover District Council, and Kent County Council (highways authority) have been consulted for the purposes of this Order. Their responses were not in opposition, but identified some issues they would like addressed as part of this work.

- 10.3 We believe these issues are manageable and have included conditions within the SDO as a direct response. Concerns expressed by the Environment Agency have been met by including conditions relating to surveys of, repairs to and upkeep of hard standing and foul and surface water drainage systems, the keeping of plans of the foul and surface water drainage systems on site, the approval of a number of plans by the Secretary of State, including the specification for the proposed surface construction and drainage system for the temporary hard standing and restrictions on which dangerous goods can be stationed on the site and where this may occur.
- 10.4 Historic England's comments were responded to by the inclusion of conditions requiring the installation of temporary hardstanding being preceded by an archaeological survey with those works being observed by an archaeologist. Those of the Kent Fire and Rescue Service by requiring inspections on and upkeep of fire hydrants and emergency water supplies. Natural England's concerns about impacts on air quality have been met by limiting the annual number of goods vehicle movements at the site. The District Councils raised issues relating to the use of the site if it is needed and its potential impact on the local area; in particular, the environment.
- 10.5 We will continue to work with all relevant stakeholders to mitigate these issues before and during any use of the site, which would be temporary should it be needed. In particular, we will work with the Environment Agency and the Kent Fire and Rescue Service to produce the environmental assessments and site management plans required before the site can be used.

## **11. Guidance**

- 11.1 Not relevant.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no significant impact on business.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 A review provision has not been included as the instrument is not regulatory in nature.

## **15. Contact**

- 15.1 Jonathan Monk at the Department for Transport Telephone: 07977 411553 or email: Jonathan.Monk@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Paul O'Sullivan, Deputy Director for Roads, EU Exit at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Jesse Norman at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.