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STATUTORY INSTRUMENTS

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**2022 No. 1248**

**The A417 Missing Link Development Consent Order 2022**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the A417 Missing Link Development Consent Order 2022 and comes into force on 7th December 2022.

**Interpretation**

2.—(1) In this Order except where provided otherwise—

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949(1);

“the 1961 Act” means the Land Compensation Act 1961(2);

“the 1965 Act” means the Compulsory Purchase Act 1965(3);

“the 1980 Act” means the Highways Act 1980(4);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(5);

“the 1984 Act” means the Road Traffic Regulation Act 1984(6);

“the 1990 Act” means the Town and Country Planning Act 1990(7);

“the 1991 Act” means the New Roads and Street Works Act 1991(8);

“the 2004 Act” means the Traffic Management Act 2004 (9);

“the 2008 Act” means the Planning Act 2008(10);

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) or any part of it and any other development authorised by this Order which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

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(1) 1949 c. 97.  
(2) 1961 c. 33.  
(3) 1965 c. 56.  
(4) 1980 c. 66.  
(5) 1981 c. 66.  
(6) 1984 c. 27.  
(7) 1990 c. 8.  
(8) 1991 c. 22.  
(9) 2004 c. 18.  
(10) 2008 c. 29.

“book of reference” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in section 329(1) of the 1980 Act;

“classification of roads plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the classification of roads plans for the purposes of this Order;

“clearways and prohibitions plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the clearways and prohibitions plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4)(11) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, ecological surveys and pre-construction ecological mitigation, erection of any temporary means of enclosure, set up works associated with construction compounds such as soil-stripping, stockpiling, and the provision of access points, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“Cotswold Way national trail diversion report” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the Cotswold Way national trail diversion report for the purposes of this Order;

“de-trunking plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the de-trunking plans for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form,

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003(12);

“engineering drawings and sections” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the engineering drawings and sections for the purposes of this Order;

“environmental management plan (design stage)” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the environmental management plan (design stage) for the purposes of this Order;

“environmental masterplan” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the environmental masterplan for the purposes of this Order;

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(11) Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(12) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

“environmental statement” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the environmental statement for the purposes of this Order;

“footpath” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“footway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“general arrangement plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“highway” has the same meaning as in section 328 (meaning of “highway”) of the 1980 Act;

“land plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the land plans for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“local highway authority” means Gloucestershire County Council;

“maintain” includes, in relation to the authorised development, to inspect, repair, adjust, alter, remove, replace or reconstruct provided such works do not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement, and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“Order limits” means the limits of the land to be acquired or used permanently or temporarily, shown on the land plans and works plans within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(13);

“relevant planning authority” means the local planning authority for the land in question;

“rights of way and access plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

“special category land plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the special category land plans for the purposes of this Order;

“speed limits plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the traffic regulation measures speed limits plans for the purposes of this Order;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority” has the same meaning as in section 49 (the street authority and other relevant authorities) of the 1991 Act;

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(13) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

“traffic authority” has the same meaning as in section 121A(14) (traffic authorities) of the 1984 Act;

“traffic regulation measures plans” means the documents titled “clearways and prohibitions plans”, “speed limits plans”, classification of roads plans” and “de-trunking plans”;

“tree preservation order” has the meaning given in section 198 of the 1990 Act(15);

“tribunal” means the Lands Chamber of the Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10(16) (general provision as to trunk roads) or section 19(1)(17) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order made or direction given under section 10 of that Act;
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means National Highways Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“works plans” means the document of that description listed in Schedule 9 (documents to be certified) and certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

### **Disapplication of legislative provisions**

3.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within any maintenance period defined in article 35(12), any maintenance of any part of the authorised development—

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(14) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act, and amended by section 1(6) of, and paragraph 95(2) and (3) of Schedule 1 to, the Infrastructure Act 2015 (c. 7) and S.I. 2001/1400.

(15) Section 198 was amended by the 2008 Act.

(16) Section 10 was amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015.

(17) Section 19(1) was amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015.

- (a) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991<sup>(18)</sup>;
- (b) section 32<sup>(19)</sup> (variation of awards) of the Land Drainage Act 1991;
- (c) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;
- (d) section 80 (notice to local authority of intended demolition) of the Building Act 1984<sup>(20)</sup>;
- (e) in so far as they relate to the temporary possession of land, the provisions of the Neighbourhood Planning Act 2017<sup>(21)</sup>; and
- (f) section 55 (variation of approved proposals) of the 1949 Act.

### **Maintenance of drainage works**

4.—(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<sup>(22)</sup>.

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<sup>(18)</sup> 1991 c. 59. Section 23 was amended by section 120(1) of and paragraph 192 of Schedule 22 to, the Environment Act 1995 and section 31 of, and paragraphs 25 and 32 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29).

<sup>(19)</sup> Section 32 was amended by S.I. 2013/755.

<sup>(20)</sup> 1984 c. 55.

<sup>(21)</sup> 2017 c. 20.

<sup>(22)</sup> 1991 c. 59. The definition was substituted by section 100(2) of the Environment Act 1995 (c. 25).