
STATUTORY INSTRUMENTS

2023 No. 834

The A303 (Amesbury to Berwick Down)
Development Consent Order 2023

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the A303 (Amesbury to Berwick Down) Development Consent Order 2023 and comes into force on 4th August 2023.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1980 Act” means the Highways Act 1980(3);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“the 1984 Act” means the Road Traffic Regulation Act 1984(5);

“the 1990 Act” means the Town and Country Planning Act 1990(6);

“the 1991 Act” means the New Roads and Street Works Act 1991(7);

“the 2008 Act” means the Planning Act 2008(8);

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

“affected person” has the same meaning as in section 59(9) (notice of persons interested in land which compulsory acquisition request relates) the 2008 Act;

“apparatus” has the same meaning as in Part 3 (street works in England and Wales) 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;

(1) 1961 c. 33.

(2) 1965 c. 56.

(3) 1980 c. 66.

(4) 1981 c. 66.

(5) 1984 c. 27.

(6) 1990 c. 8.

(7) 1991 c. 22.

(8) 2008 c. 29.

(9) Section 69 was amended by section 240(2) of, and paragraph 16 of Schedule 13 to the Localism Act 2011 (c. 20).

“authorised person” means—

- (a) a person acting in the course of that person’s duties who—
 - (i) is an employee, agent, contractor or sub-contractor of the undertaker; or
 - (ii) is authorised by the undertaker to exercise one or more of its functions under this Order; or
- (b) a constable, Police Community Support Officer, an officer of the Driver and Vehicle Standards Agency, an officer of the Health and Safety Executive, a person authorised for the purposes of section 44 (powers of fire-fighters etc. in an emergency etc.) of the Fire and Rescue Services Act 2004⁽¹⁰⁾, a person accredited by or under section 41 (accreditation under community safety accreditation schemes) of the Police Reform Act 2002⁽¹¹⁾, a traffic officer, acting in the execution of that person’s duties within the tunnel;

“book of reference” means the document listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in the 1980 Act;

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

“byway open to all traffic” has the same meaning as in section 66(1) (interpretation of Part 3) of the Wildlife and Countryside Act 1981⁽¹²⁾;

“carriageway” has the same meaning as in the 1980 Act;

“classification of roads plan” means the plan listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the classification of roads plan for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4)⁽¹³⁾ (time when development begun) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works, ecological surveys and mitigation works, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt of construction plant and equipment, erection of construction plant and equipment for the preliminary works, diversion and laying of underground apparatus and site clearance, and the temporary display of site notices or information, and “commencement” is to be construed accordingly;

“construct” includes execute, place, alter, replace, relay and remove and “construction” is to be construed accordingly;

“Convention” means the Convention Concerning the Protection of the World Cultural and Natural Heritage 1972⁽¹⁴⁾, which was ratified by the United Kingdom as a State Party on 29 May 1984;

“cycleway” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988⁽¹⁵⁾) with a right of way on foot and a right of way on horseback or leading a horse;

⁽¹⁰⁾ 2004 c. 21. Section 44 was amended by section 6 of the Emergency Workers (Obstruction) Act 2006 (c. 39).

⁽¹¹⁾ 2002 c. 30. Section 41 was amended by section 52 of, and paragraph 42 of Schedule 14 to, the Police and Justice Act 2006 (c. 48).

⁽¹²⁾ 1981 c. 69.

⁽¹³⁾ 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).

⁽¹⁴⁾ The Convention was adopted by the General Conference at its seventeenth session, Paris, 16 November 1972.

⁽¹⁵⁾ 1988 c. 52.

“Crown land plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the Crown land plans for the purposes of this Order;

“de-trunking plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the de-trunking plans for the purposes of this Order;

“ecological mitigation works” include bat roost and badger sett closures and provision of hibernacula;

“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⁽¹⁶⁾;

“engineering section drawings (cross sections)” means the drawings listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the engineering section drawings (cross sections) for the purposes of this Order;

“engineering section drawings (plan and profiles)” means the drawings listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the engineering section drawings (plan and profiles) for the purposes of this Order;

“environmental statement” means the document listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the environmental statement for the purposes of this Order;

“Esso” means Esso Petroleum Company, Limited (company number 00026538) whose registered office is at Ermyn House, Ermyn Way, Leatherhead, Surrey, KT22 8UX, and any successor in title;

“flood risk activity” has the same meaning as in regulation 2 (interpretation: general) of the Environmental Permitting (England and Wales) Regulations 2016⁽¹⁷⁾;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

“Historic England” means the Historic Buildings and Monuments Commission for England established under the National Heritage Act 1983⁽¹⁸⁾, the functions of which include acting as a statutory consultee and advising the government on the historic environment, including advice to the Department for Digital, Culture, Media and Sport which acts on behalf of government as state party to the Convention;

“land plans” means the plans listed in Schedule 12 (documents to be certified) 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 7 (limits of deviation);

“maintain” includes inspect (including recording the results of the inspection), repair, adjust, alter, remove 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;

⁽¹⁶⁾ 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

⁽¹⁷⁾ S.I. 2016/1154.

⁽¹⁸⁾ 1983 c. 47.

“Order land” means the land shown coloured pink, the land shown hatched pink, the land shown coloured blue and the land shown coloured grey on the land plans, and which is described in the book of reference;

“Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans, and the limits of land within which the authorised development, as shown on the works plans, 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(19);

“planning authority” means Wiltshire Council;

“preliminary works” means—

- (a) archaeological investigation and archaeological mitigation works;
- (b) ecological mitigation works;
- (c) investigations for the purpose of assessing ground conditions;
- (d) remedial work in respect of any contamination or other adverse ground conditions;
- (e) erection of any temporary means of enclosure;
- (f) diversion and laying of underground apparatus;
- (g) site clearance;
- (h) Work No. 1H(viii) to (xiv) inclusive;
- (i) Work No. 5; and
- (j) Work No. 7;

“restricted byway” has the same meaning as in Part 2 (public rights of way and road traffic) of the Countryside and Rights of Way Act 2000(20);

“rights of way and access plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

“Secretary of State” means the Secretary of State for Transport;

“shared use cycle track” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988) and a right of way on foot;

“Southern Electric Power Distribution plc” means the company of that name (company number 04094290) whose registered office is at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH);

“special category land plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the special category land plans for the purposes of this Order;

“special road” means a highway which is a special road in accordance with section 16(21) (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

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

(19) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(20) 2000 c. 37.

(21) Section 16 was amended by section 36 of, and paragraph 24 of Schedule 2 to the 2008 Act and section 57(1) of, and paragraph 13(2) to (4) of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

“street” means a street within the meaning of section 48(22) (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”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“traffic authority” has the same meaning as in section 121A(23) (traffic authorities) of the 1984 Act;

“traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(24);

“traffic regulation measures plans (clearways and prohibitions)” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the traffic regulation measures plans (clearways and prohibitions) for the purposes of this Order;

“traffic regulation measures plans (speed limits)” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the traffic regulation measures plans (speed limits) for the purposes of this Order;

“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(25) (general provision as to trunk roads) or 19(1)(26) (provisions as to 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;

“tunnel” means the road tunnel to be constructed as part of Work No. 1 and as shown by a solid blue line on the tunnel area plan;

“tunnel approaches” means the western and eastern approaches to the tunnel, the linear extent of which is shown by dashed blue lines on the tunnel area plan;

“tunnel area” means the extent of the public highway to be comprised in and along the tunnel and the tunnel approaches;

“tunnel area plan” means the plan listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the tunnel area plan for the purposes of this Order;

“tunnel limits of deviation plan” means the plan listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the tunnel limits of deviation plan for the purposes of this Order;

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

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

“works plans” means the plans listed in Schedule 12 (documents to be certified) certified by the Secretary of State as the works plans for the purposes of this Order and

(22) Section 48 was amended by section 124(1) and (2) of the Local Transport Act 2008 (c. 26).

(23) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act. It was amended by section 1(6) of, and paragraphs 70 and 95(2) and (3) of Schedule 1 to, the Infrastructure Act 2015 (c. 7). There are other amendments which are not relevant to this Order.

(24) 2004 c. 18.

(25) Section 10 was amended by section 22(2) of the 1991 Act, by section 36 of, and paragraph 22 of Schedule 2 to, the 2008 Act and by section 1(6) of, and paragraph 10 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(26) Section 19(1) was amended by section 1(6) of, and paragraph 15 of Schedule 1 to, the Infrastructure Act 2015.

“World Heritage Site” means the Stonehenge part of the Stonehenge, Avebury and Associated Sites World Heritage Site as inscribed by the United Nations Educational, Scientific and Cultural Organization pursuant to the Convention.

(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) References in this Order to the creation and acquisition of rights over land include references to rights to oblige a party having an interest in land to grant those rights referenced in the Order, at the direction of the undertaker, either—

(a) to an affected person directly, where that affected person’s land or rights over land have been adversely affected by this Order, and, where that is the case, the rights referenced in the Order are to be granted for the benefit of the land in which that affected person has an interest at the time of the making of this Order; or

(b) to any statutory undertaker for the purposes of their undertaking.

(4) Subject to the provisions of this Order, 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.

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

(6) 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 plan to which the reference relates.

(7) 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 or maintenance of the authorised development—

(a) section 28E (duties in relation to sites of scientific interest) of the Wildlife and Countryside Act 1981⁽²⁷⁾;

(b) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991⁽²⁸⁾;

(c) section 32 (variation of awards) of the Land Drainage Act 1991;

(d) the provisions of any byelaws made under section 66⁽²⁹⁾ (powers to make byelaws) of the Land Drainage Act 1991;

(27) 1981 c. 69. Section 28E was inserted by section 75(1) of, and paragraph 1 of Schedule 9 to, the Countryside and Rights of Way Act 2000 (c. 37). It was amended by section 105(1) of, and paragraph 79 of Schedule 11 to, the Natural Environment and Rural Communities Act 2006 (c. 16). There are other amendments which are not relevant to this Order.

(28) 1991 c. 59. Section 23 was amended by section 120 of, and paragraphs 192(1) and (2) of Schedule 22 to, the Environment Act 1995 (c. 25) and by section 31 of, and paragraph 32 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29). There are other amendments to section 23 which are not relevant to this Order.

(29) Section 66 was amended by section 31 of, and paragraph 38 of Schedule 2 to, the Flood and Water Management Act 2010 and section 86(3) of the Water Act 2014 (c. 21).

- (e) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw-making powers of the Appropriate Authority) to the Water Resources Act 1991⁽³⁰⁾;
 - (f) regulation 12 (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016⁽³¹⁾ in respect of a flood risk activity only;
 - (g) the provisions of the Neighbourhood Planning Act 2017⁽³²⁾ in so far as they relate to temporary possession of land under articles 29 (temporary use of land for constructing the authorised development) and 30 (temporary use of land for maintaining the authorised development) of this Order; and
 - (h) section 33(1)(f) (effect of requirement for development consent on other consent regimes) of the 2008 Act in so far as it relates to any work or operation authorised to be carried out outside of the Order limits under articles 14 (protective works to buildings) or 15 (authority to survey and investigate land) of this Order.
- (2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of “development”) of the Community Infrastructure Levy Regulations 2010⁽³³⁾ any building comprised in the authorised development is deemed to be—
- (a) a building into which people do not normally go; or
 - (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

⁽³⁰⁾ 1991 c. 57. Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

⁽³¹⁾ S.I. 2016/1154, amended by S.I. 2018/110.

⁽³²⁾ 2017 c. 20.

⁽³³⁾ S.I. 2010/948, amended by S.I. 2011/987.