
STATUTORY INSTRUMENTS

2023 No. 923

The A38 Derby Junctions Development Consent Order 2023

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the A38 Derby Junctions Development Consent Order 2023 and comes into force on 7th September 2023.

Interpretation

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

“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 purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“authorised development” means the development described in Schedule 1 (authorised development);

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“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) (further provision as to interpretation) of the 1980 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.

“the classification of roads plans” means the plans certified by the Secretary of State as the classification of roads plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4)(9) (time when development begun) 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, contamination or other adverse ground conditions, establishment of working areas and compounds, delivery of construction materials, plant and equipment, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“cycle track” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act(10);

“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(11);

“the engineering section drawings” means the documents certified by the Secretary of State as the engineering section drawings for the purposes of this Order;

“the environmental statement” means the documents certified by the Secretary of State as the environmental statement for the purposes of this Order;

“the flood compensation areas” means the flood compensation areas shown on the engineering section drawings and the works plans;

“the flood storage areas” means the flood storage areas shown on the engineering section drawings and on the works plans;

“footpath” and “footway” have the same meaning as in section 329(1) of the 1980 Act;

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

“the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order;

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

“the local highway authority” has the same meaning as in section 329(1)(12) of the 1980 Act;

“maintain” includes inspect, repair, adjust, alter, remove, replace or reconstruct in relation to the authorised development and any derivative of “maintain” is to be construed accordingly to the extent assessed in the environmental statement and excludes any activities that would give rise to materially new or materially different environmental effects compared to those assessed in the environmental statement;

“the 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;

(9) Section 56(4) was amended by paragraph 10(2) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34).
 (10) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).
 (11) Section 32(1) was amended by S.I. 2011/1210.
 (12) The definition of “local highway authority” was amended by section 1(6) and paragraph 60(1) and (2)(a) of Schedule 1 to the Infrastructure Act 2015 (c. 7).

“the 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;

“the outline environmental management plan” means the plan certified by the Secretary of State as the outline environmental management plan for the purposes of this Order;

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

“the speed limit plans” means the plans certified by the Secretary of State as the speed limit plans as part of the traffic regulations measures plans for the purposes of this Order;

“the relevant planning authority” has the same meaning as in section 173 (the relevant local planning authority) of the 2008 Act;

“the special category land plans” means the plans certified by the Secretary of State as the special category land 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(14) (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 Part 3(15) of the 1991 Act;

“the streets rights of way and access plans” means the plans certified by the Secretary of State as the streets rights of way and access plans for the purposes of this Order;

“traffic authority” has the same meaning as in section 121A(16) (traffic authorities) of the 1984 Act;

“the traffic management plan” means the traffic management plan which establishes the outline rules for the traffic management and temporary road layouts needed to construct the authorised development and certified by the Secretary of State as the traffic management plan for the purposes of this Order;

“the traffic regulations measures plans” means the plans certified by the Secretary of State as the traffic regulations measures plans for the purposes of this Order;

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

- (a) section 10(17) (general provision as to trunk roads) or section 19(1)(18) (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;

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

(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.

(14) Section 48 was amended by section 124 of the Local Transport Act 2008 (c. 26).

(15) See section 49, as amended by section 1(6) of, and paragraphs 113 and 117(a) of Part 2 of Schedule 1 to the Infrastructure Act 2015.

(16) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act; and amended by section 271 of the Greater London Authority Act 1999 (c. 29), section 1(6) of, and paragraphs 70 and 95 of Schedule 1 to, the Infrastructure Act 2015, and S.I. 1999/1920 and S.I. 2001/1400.

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

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

“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

“the works plans” means the plans 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. 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 34(12), any maintenance of any part of the authorised development—

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991(19);
- (b) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(20);
- (c) section 32(21) (variation of awards) of the Land Drainage Act 1991;
- (d) the provisions of any byelaws made under section 66(22) (powers to make byelaws) of the Land Drainage Act 1991; and
- (e) in so far as they relate to the temporary possession of land, the provisions of the Neighbourhood Planning Act 2017(23).
- (f) regulation 12 (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(24) in relation to the carrying on of a flood risk

(19) 1991 c. 57. Paragraph 5 was amended by section 100(1) and (2) of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraphs 40 and 49 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c. 25), section 224 of, and paragraphs 20 and 24 of Schedule 16, and Part 5(B) of Schedule 22 to, the Marine and Coastal Access Act 2009 and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(20) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995, paragraphs 25 and 32 to the Flood and Water Management Act 2010 and S.I. 2013/755.

(21) Section 32 was amended by S.I. 2013/755.

(22) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).

(23) 2017 c. 20.

(24) S.I. 2016/1154. Regulation 12 was amended by S.I. 2018/110.

activity as defined in paragraph 3(1) (meaning of “flood Risk activity”) of Part 1 of Schedule 25 to the said Regulations.

- (g) the Traffic Management (Derby City Council) Permit Scheme Order 2013⁽²⁵⁾;
- (h) the Traffic Management (Derbyshire County Council) Permit Scheme Order 2015⁽²⁶⁾.

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⁽²⁷⁾ (interpretation) of the Land Drainage Act 1991.

⁽²⁵⁾ S.I. 2013/1781.

⁽²⁶⁾ S.I. 2015/107.

⁽²⁷⁾ The definition of “drainage” was substituted by section 100(2) of the Environment Act 1995.