
STATUTORY INSTRUMENTS

2013 No. 1883

The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013

Amendments to section 22 of the Planning Act 2008

3. For section 22 of the Act (highways) substitute—

“22 Highways

- (1) Highway-related development is within section 14(1)(h) only if the development is—
 - (a) construction of a highway in a case within subsection (2),
 - (b) alteration of a highway in a case within subsection (3), or
 - (c) improvement of a highway in a case within subsection (5).
- (2) Construction of a highway is within this subsection only if—
 - (a) the highway will (when constructed) be wholly in England,
 - (b) the Secretary of State will be the highway authority for the highway, and
 - (c) the area of development is greater than the relevant limit set out in subsection (4).
- (3) Alteration of a highway is within this subsection only if—
 - (a) the highway is wholly in England,
 - (b) the Secretary of State is the highway authority for the highway, and
 - (c) the area of development is greater than the relevant limit set out in subsection (4).
- (4) For the purposes of subsections (2)(c) and (3)(c) the relevant limit —
 - (a) in relation to the construction or alteration of a motorway, is 15 hectares,
 - (b) in relation to the construction or alteration of a highway, other than a motorway, where the speed limit for any class of vehicle is expected to be 50 miles per hour or greater, is 12.5 hectares, and
 - (c) in relation to the construction or alteration of any other highway is 7.5 hectares.
- (5) Improvement of a highway is within this subsection only if—
 - (a) the highway is wholly in England,
 - (b) the Secretary of State is the highway authority for the highway, and
 - (c) the improvement is likely to have a significant effect on the environment.
- (6) Highway-related development does not fall within section 14(1)(h) if—
 - (a) an order mentioned in section 33(4) has been made in relation to the development before 1 March 2010,
 - (b) a further order is needed in relation to the development, and
 - (c) not more than 7 years have elapsed since the making of the earlier order.
- (7) Alteration of a highway is not within section 14(1)(h) if

- (a) planning permission has been granted for a development,
 - (b) the alteration is necessary as a result of the development, and
 - (c) the developer has asked for the alteration to be made to the highway.
- (8) Alteration of a highway is not within section 14(1)(h) if—
- (a) an order mentioned in section 33(4) has been made in relation to local highway works,
 - (b) the alteration is necessary as a result of the local highway works, and
 - (c) the local highway authority responsible for the local highway works has asked for the alteration to be made to the highway.
- (9) In this section—
- “area of development” —
- (a) in relation to construction of a highway, means the land on which the highway is to be constructed and any adjoining land expected to be used in connection with its construction;
 - (b) in relation to alteration of a highway, means the land on which the part of the highway to be altered is situated and any adjoining land expected to be used in connection with its alteration;
- “local highway authority” has the meaning given by section 329(1) of the Highways Act 1980⁽¹⁾;
- “local highway works” means works carried out by or on behalf of a local highway authority in relation to a highway for which it is the highway authority (and the local highway authority is referred to in this section as “responsible” for those works);
- “motorway” means a highway which is a special road in accordance with section 16 of the Highways Act 1980.”.

(1) 1980 c.66. There are amendments to section 329(1) which are not relevant to this Order. Section 16 is amended by the Planning Act 2008, Schedule 2, paragraphs 21 and 24.