
STATUTORY INSTRUMENTS

2019 No. 1230

**EXITING THE EUROPEAN UNION
TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (Waterbrook
Ashford) (EU Exit) Special Development Order 2019**

<i>Made</i>	- - - -	<i>at 1.00 p.m. on 5th September 2019</i>
<i>Laid before Parliament</i>		<i>at 2.45 p.m. on 5th September 2019</i>
<i>Coming into force</i>	- -	<i>9th September 2019</i>

The Secretary of State, in exercise of the powers conferred by sections 59(1), (2)(a) and (3)(b) and 60(1), (1A) and (2A)(b) of the Town and Country Planning Act 1990(1), makes the following Order.

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Waterbrook Ashford) (EU Exit) Special Development Order 2019 and comes into force on 9th September 2019.

(2) This Order applies to land comprising the land at Waterbrook Park, Waterbrook Avenue, Sevington, Kent, TN24 0LH, shown bounded externally by the outer edge of a bold red line on the Map (excluding land shown on the Map hatched red), and referred to in this Order as “the land”.

Interpretation

2. For the purposes of this Order—

“ADR” means the edition of the European Agreement concerning the International Carriage of Dangerous Goods by Road published in 2019(2);

“animal” means any vertebrate other than a human;

(1) 1990 c. 8. Section 59 was amended by the Growth and Infrastructure Act 2013 (c. 27), paragraph 4 of Schedule 1. Section 60 was amended by section 4(1) of that Act and section 152(1) of the Housing and Planning Act 2016 (c. 22). There are further amendments to sections 59 and 333 which are not relevant to this Order.

(2) Copies can be obtained at <http://www.unece.org/trans/danger/publi/adr/adr2019/19contentse.html> or purchased from the Stationery Office shop (tel: 0333 200 2435) or made available for inspection at Ministry of Housing, Communities and Local Government, 2 Marsham Street, London SW1P 4DF.

“Category I/II nuclear material” has the meaning given in regulation 3 of the Nuclear Industries Security Regulations 2003(3);

“Class 1 substances and articles” means substances and articles of Class 1 (explosive substances and articles) as set out in section 2.2.1 of Annex A to ADR;

“Class 4.1 substances” means substances of Class 4.1 (polymerizing substances) as set out in sections 2.2.41.1.20 and 2.2.41.1.21 of Annex A to ADR;

“CMP” means a construction management plan for the land, approved by the Secretary of State under article 5(7), which is comprised of policies and procedures in relation to—

- (a) maintaining air quality during construction works, including controlling dust;
- (b) minimising visual impact of construction works through design of structures and screening around them;
- (c) pollution control in respect of the construction works;
- (d) minimising impact of construction works on biodiversity of the land;
- (e) minimising noise and vibration of construction works and vehicles movements related to those works;
- (f) preventing surface water run-off from construction works to ground adjacent to or beneath the land;
- (g) the consideration of environmental performance when selecting vehicles, plant and machinery for the construction works;

“commencement date” means the date this Order comes into force;

“dangerous goods” means any goods classified in Class 1 to 9 in accordance with Chapter 2.2 of Annex A to ADR;

“goods vehicle” means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted;

“hard standing” means pre-existing hard standing and new temporary hard standing, including any roads on the land;

“High Consequence Dangerous Goods” has the meaning given in section 1.10.3.1 of Annex A to ADR;

“the Map” means the map marked “Map referred to in the Town and Country Planning (Waterbrook Ashford) (EU Exit) Special Development Order 2019” a copy of which, signed by a member of the Senior Civil Service in the Ministry of Housing, Communities and Local Government, is available for inspection at—

- (a) Planning Directorate, Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF; and
- (b) Ashford Borough Council, Civic Centre, Tannery Lane, Kent, TN23 1PL;

“monitoring programme” means the policies and procedures for monitoring of goods vehicles approved by the Secretary of State as part of the OMP;

“new temporary hard standing” means the hard standing installed on the land after the commencement date;

“OMP” means an operational management plan for the land, approved by the Secretary of State under article 5(5), which is comprised of policies and procedures in relation to—

- (a) engagement with the local community and local businesses;
- (b) site rules for drivers;

- (c) dealing with adverse weather, incidents and emergency response;
- (d) managing goods vehicles carrying dangerous goods;
- (e) managing vehicles carrying a specimen of a species included in the Annex to Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein;
- (f) signage for drivers of goods vehicles entering and exiting the land;
- (g) monitoring of impacts on the local road network of goods vehicles entering and exiting the land, including the methodology for the monitoring;
- (h) local employment strategy for staff and staff training;
- (i) staff travel;
- (j) managing protestors;
- (k) increasing biodiversity;
- (l) identification of the foul water sewers and surface water drainage system on the land, including the location of access to emergency stop valves, and management of those systems;
- (m) pollution prevention and control;
- (n) management of fire risks;

“parking area A” means the area shown on the Map as parking area A which is bounded externally by the outer edge of a black line;

“parking area B” means the area shown on the Map as parking area B which is bounded externally by the outer edge of a black line;

“pre-existing hard standing” means hard standing that existed on the land immediately before the commencement date;

“processing” means—

- (a) recording vehicles entering or exiting the land;
- (b) providing, reviewing and approving customs declarations in relation to vehicles;
- (c) checking and endorsing permits relating to items carried in vehicles;
- (d) examining, seizing and detaining items carried in vehicles;
- (e) inspecting vehicles for any other lawful purpose; and
- (f) checking vehicles to ensure compliance with the limitations and conditions imposed by this Order;

“site operator” means the person responsible for operations on the land;

“vehicle examiner” means an examiner appointed pursuant to section 66A of the Road Traffic Act 1988(4).

Temporary planning permission

3.—(1) Subject to articles 4 and 5, planning permission is granted for development on the land consisting of—

- (a) use of the land for the stationing of vehicles (in particular goods vehicles) and processing of vehicles;
- (b) use of the land for repairs to vehicles where a vehicle examiner—

(4) 1988 c. 53. Section 66A is inserted by section 9(1) of the Road Traffic Act 1991 (c. 40) and is amended by paragraph 11 of Schedule 7 to the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23).

- (i) examines the vehicle on the land;
 - (ii) determines, pursuant to section 69(1) of the Road Traffic Act 1988, that owing to any defects in the vehicle it is, or is likely to become, unfit for service, and
 - (iii) prohibits the driving of the vehicle on a road;
 - (c) provision of acoustic fencing on the eastern and southern perimeter of parking area B;
 - (d) provision on the land of new temporary structures (including new temporary hard standing), works, plant or machinery and lighting, including—
 - (i) for the use permitted by sub-paragraph (a), the provision of facilities for drivers, and
 - (ii) the provision of temporary structures (including portacabins) for administration and other facilities for persons processing vehicles;
 - (e) resurfacing and repair of hard standing; and
 - (f) repair of the foul water and surface water drainage systems.
- (2) The planning permission granted by paragraph (1) ceases at the end of 31st December 2020 and immediately thereafter the land reverts to its previous lawful use.

Limitations

4. Development is not permitted by article 3 for—
- (a) the use of the land for the stationing of goods vehicles otherwise than as directed by a site official;
 - (b) the use of the land for the stationing of goods vehicles otherwise than on hard standing;
 - (c) the use of the land for stationing of goods vehicles carrying live animals excluding—
 - (i) any animal which is a specimen of a species included in the Annex to Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein;
 - (ii) any animal kept as a pet and carried with the driver of the vehicle;
 - (d) the use of the land for the refuelling or unloading of goods vehicles, other than any unloading incidental to the development referred to in article 3 (other than paragraphs (a) and (b) of that article); and
 - (e) the use of the land for the stationing of goods vehicle carrying—
 - (i) Class 1 substances and articles (explosives) and Class 4.1 substances (polymerizing substances);
 - (ii) Category I/II nuclear material; and
 - (iii) High Consequence Dangerous Goods.

Conditions

- 5.—(1) Development permitted by article 3 is subject to the following conditions—
- (a) subject to paragraph (2), no more than 950 goods vehicles to be stationed on parking areas A and B at any time;
 - (b) any hard standing on the land to be used for the stationing of goods vehicles must be kept in good repair;
 - (c) the surface water and foul water drainage system must be kept in good repair;
 - (d) when stationed each goods vehicle must not have its engine idling;

- (e) fire hydrants and emergency water supplies must be kept in good repair and any defects must be repaired as soon as practicable;
 - (f) any artificial lighting must not exceed 6 metres in height and must be arranged so the main beam angle of each installation is directed downward and away from the closest boundary so as to minimise light spill;
 - (g) any temporary structure (excluding artificial lighting) must not exceed 4.5 metres in height;
 - (h) temporary structures collecting sewage that are not attached to mains sewers must be emptied regularly;
 - (i) a copy of the OMP must be kept on the land at all times and operations on the land must be managed in accordance with the OMP; and
 - (j) building works on the land must comply with the policies and procedures in the CMP.
- (2) Where the site operator intends to station goods vehicles on parts of the land other than parking areas A and B the approval in writing of the Secretary of State must be obtained.
- (3) Development permitted by article 3(1)(a) is subject to the condition that, in relation to each calendar month the land is in use, the site operator must send a monitoring report to the Secretary of State, the local highways authority and Highways England, no later than 7 working days after the end of that month, setting out the findings from the monitoring programme.
- (4) Where a monitoring report under paragraph (3) indicates an adverse impact on the immediate road network from goods vehicles using the land, the site operator must—
- (a) include in the report measures which the site operator considers would mitigate the effects of the impact and the period within which the measures could be implemented; and
 - (b) where the Secretary of State notifies the site operator that the proposed measures are approved, implement the measures within that period.
- (5) Development permitted by article 3(1)(a) may not take place until the following conditions are satisfied—
- (a) the site operator reports to the Secretary of State that the roadworks to junction 10A of the M20 are sufficiently advanced and the Secretary of State agrees in writing;
 - (b) the development permitted by article 3(1)(c) is completed;
 - (c) the OMP is approved in writing by the Secretary of State.
- (6) Development permitted by article 3(1)(c) may not take place until the height, design and material specifications of the acoustic fencing are approved in writing by the Secretary of State;
- (7) Development permitted by article 3(1)(c), (e) or (f) may not take place until the CMP is approved in writing by the Secretary of State.
- (8) As soon as reasonably practicable after the land is no longer needed for the stationing and processing of vehicles, and in any event no later than 31st March 2021, all temporary structures, plant or machinery brought on to the land on or after the commencement date pursuant to the planning permission granted under this Order must be removed, except for any structures, works, plant or machinery which the Secretary of State in writing agrees may remain.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Esther McVey
Minister of State
Ministry of Housing, Communities and Local
Government

At 1.00 p.m. on 5th September 2019

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants temporary planning permission until 31st December 2020, subject to limitations and conditions, for development consisting of use of certain land on the Waterbrook site for the stationing and processing of goods vehicles and the provision of temporary structures (article 3).

Article 4 sets out limitations on the development. Article 5 sets out conditions on development.

The land to which this Order applies is shown on a map, a copy of which is available for inspection at the Planning Directorate, Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF and Ashford Borough Council, Civic Centre, Tannery Lane, Kent, TN23 1PL.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

For illustrative purposes only a plan of the land to which this Order applies is appended below.

