
STATUTORY INSTRUMENTS

2019 No. 86

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Manston Airport) Special Development Order 2019

<i>Made</i>	- - - -	<i>21st January 2019</i>
<i>Laid before Parliament</i>		<i>23rd January 2019</i>
<i>Coming into force</i>	- -	<i>24th January 2019</i>

The Secretary of State, in exercise of the powers conferred by sections 59(1), (2)(a), (3)(b), 60(1) 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 (Manston Airport) Special Development Order 2019 and comes into force on 24th January 2019.

(2) This Order applies to land comprising the land at Manston Airport, Manston Road, Manston in Kent, shown on the Map bounded externally by the outer edge of the bold red line, and referred to in this Order as “the land”.

Interpretation

2. For the purposes of this Order—

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

“animal” means any vertebrate other than man;

“Class 1 substances and articles” (explosives) has the same meaning as in sub-section 2.2.1.1.1 of Annex A to ADR;

“Class 4.1 substances and articles” (polymerising substances) has the same meaning as in sub-sections 2.2.41.1 to 2.2.41.2 and 2.2.41.1.20 to 2.2.41.1.21 of Annex A to ADR;

(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 the Housing and Planning Act 2016 (c. 22), section 152(1). There are further amendments to sections 59 and 333 that are not relevant to this Order.

(2) ISBN9789211391565 (2017 edition). Copies can be obtained at <http://www.unece.org/trans/danger/publi/adr/adr2017/17contentse0.html> or purchased from The Stationery Office shop (<https://www.tsoshop.co.uk/> or 0333 200 2425).

“Class 6.2 substances and articles” (infectious substances) has the same meaning as in sub-sections 2.2.62.1 to 2.2.62.2 of Annex A to ADR;

“Class 7 substances and articles” (radioactive material) has the same meaning as in sub-section 2.2.7.1.1 of Annex A to ADR;

“dangerous goods” means any goods classified as Class 1-9 in accordance with Chapter 2.2 ADR;

“dangerous goods management plan” means a plan outlining how goods vehicles entering the land and carrying dangerous goods will be managed on site, including but not limited to—

- (a) identifying the loads that are unsuitable for stationing on the land and so are excluded from being stationed on the land;
- (b) the traffic management procedure applying to vehicles carrying such loads, including how they will transit through the land;
- (c) the traffic management procedure applying to vehicles carrying loads that are safe to be stationed on the land but require isolation in the area marked “A” on the map;
- (d) the traffic management procedure of vehicles carrying loads that may require isolating once parked on the land due to leaking;

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

“goods vehicle movement” means a goods vehicle entering, transiting and exiting the land;

“hard standing” means both permanent and temporary hard standing;

“High Consequence Dangerous Goods” has the meaning given in sub-section 1.10.3.1.2 of Annex A to ADR;

“the High-Resolution Direction Finder” means the system used to monitor ultra high frequency and very high frequency transmissions and provide range information;

“the main exit” means the area shown on the map as “main exit”, extending from the point on the map marked “Gate A” to the area bounded externally by the outer edge of the bold black line and shaded in black;

“the map” means the map marked “Map referred to in the Town and Country Planning (Manston Airport) Special Development Order 2019” a copy of which, signed by a member of the Senior Civil Service in the Department for Transport, is available for inspection at—

- (a) Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR; and
- (b) Thanet District Council, Cecil Street, Margate, Kent, CT9 1XZ;

“permanent hard standing” means hard standing that existed on the land immediately before the date upon which this Order comes into force;

“processing” means—

- (a) recording goods vehicles entering or exiting the land,
- (b) checks on good vehicles to ensure compliance with the conditions imposed by this Order, and
- (c) checks and inspections of goods vehicles conducted for any lawful purpose;

“protected species” means the birds and animals listed in Schedules 1 and 5 to the Wildlife and Countryside Act 1981(3);

(3) 1981 c. 69. Schedule 5 is amended by S.I. 1988/288, 1989/906, 1991/367, 1992/2350, 1998/288, 1998/878, 2007/1843, 2008/2172 and 2011/2015. There are further amendments that are not relevant to this Order.

“protester policy” means a policy setting out information in relation to protestors on the land, including information about criminal offences that may be committed on the land and the mechanism by which matters may be reported to Kent police;

“refrigeration goods vehicle” means a goods vehicle keeping its load in a chilled or frozen condition;

“site management plan” means a plan outlining—

- (a) the methodology for administering, and
 - (b) safe operating guidelines for site officials involved in,
- the entry, transit, stationing and exit of goods vehicles using the land;

“temporary hard standing” means the hard standing installed on the land after the date upon which this Order comes into force;

“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 to 8, planning permission is granted for development on the land consisting of—

- (a) use of the land for the stationing, transit and processing of goods vehicles;
- (b) use of the land for repairs to goods vehicles where a vehicle examiner —
 - (i) examines the vehicle on the land,
 - (ii) determines, pursuant to section 69(1) of the Road Traffic Act 1988(5), 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) the provision of temporary structures, works, plant or machinery, including generators and lighting for—
 - (i) the uses permitted by sub-paragraph (a), and
 - (ii) the provision of facilities for drivers of, and those processing, goods vehicles;
- (d) use of buildings for—
 - (i) the provision of facilities and services for drivers of, and those processing, goods vehicles, including the installation of temporary lighting and heating associated with these uses, and
 - (ii) the transit and processing of goods vehicles;
- (e) the installation of temporary hard standing in the area marked “B” and shaded in red on the map;
- (f) increasing the width of the area on the map marked “main exit” to no more than 8 metres;
- (g) resurfacing and repair of permanent hard standing;
- (h) repair of the foul and surface water drainage systems;
- (i) use of identified access points for good vehicles to enter and exit the site; and
- (j) use of the existing car park adjacent to the passenger terminal for the parking of non-goods vehicles associated with the use of the site.

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

(5) Section 69 is substituted by the Road Traffic Act 1991, section 12.

(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—
 - (i) areas of hard standing, and
 - (ii) areas shown on the map bounded externally by the outer edge of the bold black line;
 - (c) the use of the land for the refuelling or unloading of goods vehicles, other than any unloading of goods vehicles incidental to development referred to in article 3(1)(c), (d), (e), (f), (g) and (h);
 - (d) the use of the land for the stationing of goods vehicles carrying—
 - (i) Class 1 substances and articles, Class 4.1 substances and articles, Class 6.2 substances and articles and Class 7 substances and articles,
 - (ii) High Consequence Dangerous Goods,
 - (iii) goods identified in the dangerous goods management plan as—
 - (aa) goods that may not be permitted on the land in any quantities, or
 - (bb) goods that may not be permitted on the land in quantities in excess of the limits detailed in the plan,
 - (cc) or goods that require stabilisation through temperature control that cannot be accommodated for on the land,
 unless the approval of the Secretary of State is obtained;
 - (e) the use of the land for the stationing of goods vehicles carrying live animals;
 - (f) the stationing of goods vehicles on the land within 120 metres of the High-Resolution Direction Finder when it is operational, otherwise than in accordance with a management plan agreed by the Department for Transport, Ministry of Defence, and Civil Aviation Authority.

General conditions

- 5.—(1) The planning permission granted by article 3 is subject to the following conditions—
- (a) (i) Any hard standing, and
 - (ii) following completion of the development permitted by article 3(1)(f), the area on the map marked “main exit”,

must be kept in good repair and any defects in the hard standing which may allow surface water or other liquids to enter the ground beneath the hard standing must be repaired, so the hard standing is impermeable, as soon as practicable;
 - (b) the surface water drainage system must be kept in good repair and any defects or blockages to that system must be repaired or removed as soon as practicable;
 - (c) the foul water drainage system must be kept in good repair and any defects or blockages to the foul water drainage systems must be repaired or removed as soon as practicable;
 - (d) the plan identifying the foul and surface water drainage systems, including the location of access points for emergency stop valves, must be kept on the land at all times;

- (e) fire hydrants and emergency water supplies must be kept in good repair and any defects must be repaired as soon as practicable;
 - (f) no artificial lighting may be installed closer than 10 metres from the boundary of the land and must be arranged so the main beam angle of each installation is directed downward and away from the boundary so as to minimise light spill;
 - (g) refrigeration goods vehicles must use the dedicated electrical supply provided by means of mains electricity or generators when stationed on the site;
 - (h) not to—
 - (i) use any building on the land, or
 - (ii) develop within a 20 metre radius of any point on the land,where such building or point is identified by the ecological survey, required by article 6, as being used by protected species as a breeding, resting or sheltering place, unless a subsequent survey has advised that the building or point on the land is no longer being used as a breeding, resting or sheltering place;
 - (i) dangerous goods that are identified in the dangerous goods management plan as requiring isolation, must be stationed in the area marked “A” on the map;
 - (j) the number of goods vehicle movements on the site after 29th March 2019 may not exceed 305,505 per calendar year;
 - (k) during the development permitted by article 3(1)(e), an archaeologist nominated by the Secretary of State must oversee the works and be permitted to record items of interest and finds;
 - (l) cesspits must be emptied no less than once per month;
 - (m) standalone temporary structures collecting sewage that are not attached to mains sewers must be emptied daily;
- (2) As soon as reasonably practicable after the land is no longer needed for the stationing, transit and processing of goods vehicles, and in any event no later than 31st December 2020—
- (a) all structures, works, plant or machinery brought on to the land for the purposes of this Order, on or after the date upon which this Order came into force, must be removed; and
 - (b) with the exception of any repairs to permanent hard standing, buildings, facilities and drainage, and increasing the width of the area on the map marked “main exit”, the land must be restored to its condition immediately before the date upon which this Order came into force.

Pre-commencement conditions

6. Prior to the use of buildings for a use permitted by this Order, an ecological survey must be conducted.

7. Development permitted by article 3(1)(a) may not commence until the following conditions are complied with—

- (a) the development permitted by article 3(1)(f) is completed;
- (b) a survey of the foul and surface water drainage systems on the land is conducted and—
 - (i) any defects or blockages to those drainage systems are repaired or removed, and
 - (ii) any repairs essential to the structural integrity of the existing drainage systems identified in the survey are undertaken;

- (c) a survey of the permanent hard standing is conducted to identify any significant cracks or areas which may allow surface water to enter the ground, and all such defects identified are filled and made impermeable;
- (d) an inspection, including a test of fire hydrants and emergency water supplies on the land is conducted and any defects identified are remedied; and
- (e) copies of—
 - (i) site rules for drivers of goods vehicles stationed on the site,
 - (ii) an emergency incident report plan,
 - (iii) a staff training plan,
 - (iv) a drainage system maintenance plan,
 - (v) a protester policy,
 - (vi) a fire risk management plan,
 - (vii) a dangerous goods management plan, and
 - (viii) a site management plan,are approved in writing by the Secretary of State.

8.—(1) Development permitted by article 3(1)(e) may not commence until the following conditions are complied with—

- (a) the design and materials specifications of—
 - (i) the proposed surface construction, and
 - (ii) its surface water drainage system,are approved in writing by the Secretary of State;
- (b) an unexploded ordnance survey is conducted in the area marked “B” and shaded in red on the map; and
- (c) an archaeological survey is conducted in the area marked “B” and shaded in red on the map.

(2) Prior to the removal or disturbance of the Y-shaped dispersal pads in the area marked on the map as “B” and shaded in red, those dispersal pads must be appropriately recorded in accordance with Historic England’s technical guidance or alternative best practice.

Signed by authority of the Secretary of State for Transport

21st January 2019

Jesse Norman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order augments the Town and Country Planning (Operation Stack) Special Development Order 2015.

Article 3 grants planning permission until 31st December 2020, subject to limitations and conditions, for development consisting of use of land at Manston Airport for the stationing of goods vehicles and associated uses.

Article 4 sets out limitations on the development.

Article 5 sets out general conditions of development and articles 6, 7 and 8 set out conditions which must precede the development.

The land to which this Order applies is shown on the map, a copy of which is available for inspection at both the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR, and Thanet District Council, Cecil Street, Margate, Kent, CT9 1XZ, between 10:00am and 4:00pm.

A full regulatory impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum is published alongside this Order at www.legislation.gov.uk