
STATUTORY INSTRUMENTS

2020 No. 1099

**The Southampton to London Pipeline
Development Consent Order 2020**

PART 3

STREETS

Application of the permit schemes

9.—(1) The permit schemes apply to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(2) For the purposes of this Order—

- (a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; and
- (b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(3) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(4) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Part 2 of Schedule 2 (requirements) of this Order.

Power to alter layout, etc. of streets

10.—(1) The undertaker may for the purposes of carrying out the authorised development temporarily alter the layout of, or carry out any works in, a street specified in column (1) of Schedule 3 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such street, footpath, footway, cycle track, central reservation or verge;

- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and
- (i) execute any works to provide or improve sight lines required by the highway authority.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority but such consent is not to be unreasonably withheld or delayed.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, enter upon so much of any of the streets specified in column (1) of Schedule 4 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street;
- (e) maintain, alter or renew apparatus in or on the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes of carrying out the works set out in paragraph (1).

(3) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority but such consent is not to be unreasonably withheld or delayed.

(4) If a street authority that receives an application for consent under paragraph (3) fails to notify the undertaker of its decision within 42 days beginning with the date on which the application was made, that authority will be deemed to have granted consent.

(5) The authority given by paragraph (1) or (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(6) In this article “apparatus” has the meaning given in Part 3 of the 1991 Act but also expressly includes pipelines (together with any apparatus and works associated therewith) within the meaning of section 65 (meaning of “pipe-line”) of the Pipe-lines Act 1962(1).

Application of the 1991 Act

12.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(2) (dual carriageways and roundabouts) of the 1980 Act or section 184(3) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56(4) (power to give directions as to timing);
- (b) section 56A(5) (power to give directions as to placing of apparatus);
- (c) section 58(6) (restrictions on works following substantial road works);
- (d) section 58A(7) (restriction on works following substantial street works); and
- (e) Schedule 3A(8) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 13 (temporary closure, alteration, diversion or restriction of streets and public rights of way), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(9) referred to in paragraph (4) are—

(1) 1962 c. 58.
(2) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).
(3) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).
(4) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(5) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).
(6) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(7) Section 58A was inserted by section 52 of the Traffic Management Act 2004 (c. 18).
(8) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004 (c. 18).
(9) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

- (a) subject to paragraph (6), section 54(10) (advance notice of certain works);
- (b) subject to paragraph (6), section 55(11) (notice of starting date of works);
- (c) section 57(12) (notice of emergency works);
- (d) section 59(13) (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned in sub-paragraphs (a) to (j).

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Temporary closure, alteration, diversion or restriction of streets and public rights of way

13.—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily close, alter, divert or restrict any street or public right of way shown on the access & rights of way plan or within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street or public right of way which has been temporarily closed, altered, diverted or restricted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, alteration, diversion or restriction under this article if there would otherwise be no reasonable access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily close, alter, divert or restrict the streets or public rights of way specified in column (1) of Parts 1 and 2 of Schedule 5 (streets or public rights of way to be temporarily closed, altered, diverted or restricted) to the extent specified in column (2) of that Schedule, and, if it does so in respect of a street or public right of way specified in Part 1 of Schedule 5, must provide the temporary diversion as specified in column (3) of that Part.

(5) The undertaker must not temporarily close, alter, divert or restrict any street or public right of way as mentioned in paragraph (1) without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed.

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street or public right of way in column (1) of Part 1 of Schedule 5.

(10) As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).

(11) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).

(12) As also amended by section 52(3) of the Traffic Management Act 2004 (c. 18).

(13) As amended by section 42 of the Traffic Management Act 2004 (c. 18).

(7) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(8) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

(9) References to the temporary stopping up of any street or highway in Schedule 9 (protective provisions) and any agreement referred to in paragraph 1 of Part 1 (for the protection of electricity, gas, water and sewerage undertakers) of that Schedule are to be construed as a reference to the closure of that street or highway under this article.

Use of private roads

14.—(1) Subject to paragraphs (2), (3) and (4), the undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction and maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

(4) The undertaker may only use a private road under paragraph (1) for such time as the power to take temporary possession of the land upon which it is located under either article 30 (temporary use of land for carrying out the authorised development) and article 31 (temporary use of land for maintaining the authorised development) is capable of being exercised under those articles in relation to that land.

Access to works

15.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), with the consent of the street authority (such consent not to be unreasonably withheld or delayed) following consultation by the street authority with the relevant planning authority, form and lay out such means of access (permanent or temporary) or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The consent of the street authority is not required for the formulation, laying out or improvement of a new or existing means of access as described in Schedule 1 (authorised development).

(3) If the street authority which has received an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the 42 day period beginning with the date on which the application was made, it is deemed to have granted consent.

Traffic regulation

16.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed, the undertaker may at any time, for the purposes of, or in connection with, the construction of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than 28 days' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in subparagraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—

- (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces)⁽¹⁴⁾ of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004⁽¹⁵⁾.

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) at any time.

(6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(7) If the traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

Agreements with street authorities

17.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street, including any structure carrying the street over any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street, including any structure carrying the street over any of the authorised development;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any part of the authorised development;
- (d) any stopping up, alteration or diversion of a street authorised by this Order;

⁽¹⁴⁾ As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

⁽¹⁵⁾ 2004 c. 18.

- (e) the carrying out in the street of any of the works referred to in article 10 (power to alter layout, etc. of streets) and article 11 (street works); and
 - (f) such other works as the parties may agree.
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and other matters as the parties consider appropriate.