
STATUTORY INSTRUMENTS

2023 No. 923

The A38 Derby Junctions Development Consent Order 2023

PART 4

SUPPLEMENTAL POWERS

Authority to survey and investigate the land

22.—(1) The undertaker may for the purposes of this Order enter on any land within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land (including any watercourses, ground water, static water bodies or vegetation on the land);
- (b) without limitation on the scope of sub-paragraph (a), make any excavations, trial holes or boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water samples onto the land;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes or boreholes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes or boreholes.

(4) No trial holes or boreholes are to be made under this article—

- (a) in land located within the highway boundary for which the local highway authority is the highway authority, without the consent of the local highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(6) If either the local highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of the local highway authority; or

(b) under paragraph (4)(b) in the case of a street authority, that authority is deemed to have granted consent.

(7) An application for consent under paragraph (4) must be accompanied by a letter informing the local highway authority or street authority—

- (a) of the period mentioned in paragraph (6); and
- (b) that if they do not respond before the end of that period, consent will be deemed to have been granted.