STATUTORY INSTRUMENTS

2017 No. 1202

INFRASTRUCTURE PLANNING

The M20 Junction 10a Development Consent Order 2017

Made - - - -	*1st December 2017*
Coming into force - -	*22nd December 2017*

An application has been made to the Secretary of State under section 37 of the Planning Act 2008(**1**) ("the 2008 Act") in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**2**) for an Order granting development consent.

The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**3**).

The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State is satisfied that replacement land has been or will be given in exchange for the special category land (as defined in article 36(5) of this Order), and the replacement land (as defined in that article) has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the special category land, and that, accordingly, section 131(4) of the 2008 Act applies.

The Secretary of State is satisfied that the special category (rights) land (as defined in article 36(5) of this Order), when burdened with any new rights authorised to be compulsorily acquired under this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

(**1**) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(**2**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/2381, S.I. 2015/377, S.I. 2017/ 572; modified by S.I. 2012/1659.
(**3**) S.I. 2010/103, amended by S.I. 2012/635.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the M20 Junction 10a Development Consent Order 2017 and comes into force on 22nd December 2017.

Interpretation

2.—(1) In this Order except where provided otherwise—

"the 1961 Act" means the Land Compensation Act 1961(**4**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**5**);

"the 1980 Act" means the Highways Act 1980(**6**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**7**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**8**);

"the 1990 Act" means the Town and Country Planning Act 1990(**9**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**10**);

"the 2008 Act" means the Planning Act 2008(**11**);

"A2070 Option A" means Work No. 2A;

"A2070 Option B" means Work No. 2B;

"address" includes any number or address for the purposes of electronic transmission;

"alternative A2070 options" means the A2070 Option A and the A2070 Option B;

"apparatus" has the same meaning as in Part 3 of the 1991 Act;

"authorised development" means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

"the book of reference" means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

"bridleway" has the same meaning as in the 1980 Act;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in the 1980 Act;

"the classification of roads plans" means the plans of that description certified by the Secretary of State as the classification of roads plans for the purposes of this Order;

(**4**) 1961 c. 33.
(**5**) 1965 c. 56.
(**6**) 1980 c. 66.
(**7**) 1981 c. 66.
(**8**) 1984 c. 27.
(**9**) 1990 c. 8.
(**10**) 1991 c. 22.
(**11**) 2008 c. 29.

"commence" means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly;

"cycle track" has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(**12**);

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"the engineering section drawings" means the documents certified as the engineering section drawings by the Secretary of State for the purposes of this Order;

"the environmental masterplan" means the plan certified by the Secretary of State as the environmental masterplan for the purposes of this Order;

"environmental statement" means the documents set out in Schedule 10 (environmental statement documents to be certified) and certified as the environmental statement by the Secretary of State for the purposes of this Order;

"footpath" and "footway" have the same meaning as in the 1980 Act;

"the general arrangement plans" means the plans certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

"highway" has the same meaning as in the 1980 Act;

"the highway authority" means the undertaker;

"the land plans" means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

"limits of deviation" means the limits of deviation referred to in article 8 (limits of deviation);

"the local highway authority" means Kent County Council;

"maintain" includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, remove or reconstruct in relation to the authorised development and any derivative of "maintain" is to be construed accordingly;

"Order land" means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

"the Order limits" means the limits of deviation shown on the works plans within which the authorised development may be carried out;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**13**);

"relevant planning authority" means the local planning authority for the land in question;

"the rights of way and access plans" means the plans certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;

"Secretary of State" means the Secretary of State for Transport;

(**12**) The definition of "cycle track" was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(**13**) 1981 c. 67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

"the special category land plans" means the plans certified by the Secretary of State as the special category land plans for the purposes of this Order;

"special road" means a highway which is a special road in accordance with section 16 (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

"the speed limit plans" means the plans certified by the Secretary of State as the speed limit plans for the purposes of this Order;

"statutory undertaker" means any statutory undertaker for the purposes of section 127(8) (statutory undertakers' land) of the 2008 Act;

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

"traffic authority" has the same meaning as in section 121A(**14**) (traffic authorities) of the 1984 Act;

"traffic regulation measures plans" means the plans certified as the traffic regulation measures plans by the Secretary of State for the purposes of this Order;

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"trunk road" means a highway which is a trunk road by virtue of—

(a) section 10(**15**) (general provision as to trunk roads) or section 19(1)(**16**) (certain special roads and other highways to become trunk roads) of the 1980 Act;

(b) an order made or direction given under section 10 of that Act; or

(c) an order granting development consent; or

(d) any other enactment;

"the undertaker" means Highways England Company Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

"the works plans" means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(**14**) This section was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22); and brought into force by S.I. 1991/2288.
(**15**) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).
(**16**) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

Disapplication of legislative provisions

3.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development-

(a) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**17**) in relation to the carrying on of a flood risk activity or a water discharge activity;

(b) section 24 (restrictions on abstraction) of the Water Resources Act 1991(**18**);

(c) the provisions of any byelaws made under, or having effect as if made under, paragraph 5 of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991;

(d) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(**19**);

(e) section 32 (variation of awards) of the Land Drainage Act 1991; and

(f) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991.

(2) In paragraph 1(a) "flood risk activity"(**20**) and "water discharge activity"(**21**) have the meaning given in the Environmental Permitting (England and Wales) Regulations 2016.

Maintenance of drainage works

4.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article "drainage" has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

5.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(**17**) S.I. 2016/1154.
(**18**) 1991 c. 57.
(**19**) 1991 c. 59.
(**20**) This term is defined in paragraph 3 of Part 1 of Schedule 25 to the Regulations.
(**21**) This term is defined in paragraph 3 of Schedule 21 to the Regulations.