STATUTORY INSTRUMENTS

2016 No. 17

INFRASTRUCTURE PLANNING

The East Midlands Gateway Rail Freight Interchange and Highway Order 2016

Made - - - -	*12th January 2016*
Coming into force - -	*2nd February 2016*

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 in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**3**) by a Panel appointed by the Secretary of State in accordance with Chapter 2 of Part 6 of the 2008 Act.

The Panel, having considered the representations made and not withdrawn and the application with the accompanying documents, in accordance with section 83 of the 2008 Act has reported to the Secretary of State.

The Secretary of State having considered the representations made and not withdrawn and the report of the Panel has decided to make an Order granting development consent for the development described in the application with modifications which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 change to the proposals comprised in the application.

The Secretary of State in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 21, 23, 24, 33, 34, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and Commencement

1. This Order may be cited as the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 and comes into force on 2nd February 2016.

(**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 and S.I. 2013/522.
(**3**) S.I. 2010/103, amended by S.I. 2012/635.

Interpretation

2.—(1) In this Order—

"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 1984 Act" means the Road Traffic Regulation Act 1984(**7**);

"the 1988 Act" means the Road Traffic Act 1988(**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;

"the 2009 EIA Regulations" means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(**11**);

"abnormal load vehicle" means an abnormal indivisible load vehicle, within the meaning given in paragraph 3 of Schedule 1 (abnormal indivisible load vehicles) to the Road Vehicles (Authorisation of Special Types) (General) Order 2003(**12**), whose use on roads is authorised by that Order;

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

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

"airport" means the airport known as East Midlands Airport;

"airport operator" means East Midlands International Airport Limited or any successor operator of the airport;

"apparatus" for the purposes of article 10 (highway works) and article 32 (apparatus and rights of statutory undertakers in stopped up streets) has the same meaning as in Part 3 of the 1991 Act;

"authorised activity" means for the purpose of article 26 (power to override easements and other rights)—

(a) the erection, construction, carrying out or maintenance of any building or works on land;

(b) the erection, construction or maintenance or anything in, on, over or under land; or

(c) the use of any land;

"authorised building" means any building erected as part of the authorised development;

"authorised development" means the 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 and any works carried out under the requirements;

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

(**4**) 1961 c. 33.
(**5**) 1965 c. 56.
(**6**) 1980 c. 66.
(**7**) 1984 c. 27.
(**8**) 1988 c. 52.
(**9**) 1990 c. 8.
(**10**) 1991 c. 22.
(**11**) S.I.2009/2263, as amended by S.I. 2011/98, 2011/1043, S.I. 2012/635 and S.I. 2012/787.
(**12**) S.I. 2003/1998.

"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;

"bus" has the same meaning as in regulation 22 of the Traffic Signs Regulations and General Directions 2002(**13**);

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

"construction management framework plan" means the document certified by the Secretary of State as the construction management framework plan for the purposes of this Order;

"construction management strategy for safeguarding the Derwent Valley Aqueduct" means the document certified by the Secretary of State as the construction management strategy for safeguarding the Derwent Valley Aqueduct for the purposes of this Order;

"cycle track" has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(**14**);

"the design and access statement" means the document certified by the Secretary of State as the design and access statement for the purposes of this Order;

"development consent obligation" means the development consent obligation entered into by agreement under section 106 (planning obligations) of the 1990 Act(**15**) dated 19th June 2015 in respect of the authorised development and any subsequent amendment to the obligation;

"the environmental statement" means the document submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**16**) and certified by the Secretary of State as the environmental statement for the purposes of this Order;

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

"highway" and "highway authority" have the same meaning as in the 1980 Act;

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

"Highways England" means Highways England Company Limited (company number 9346363), whose registered office is at Bridge House, Walnut Tree Close, Guildford, GU1 4ZZ, appointed as highway authority for the highways specified in article 2 of the Appointment of a Strategic Highways Company Order 2015(**17**);

"highway works" means the works comprised in Works Nos. 7, 8, 10, 11, 12 and 13;

"the highway works components plans" means the document certified by the Secretary of State as the highway works components plans for the purposes of this Order;

"illustrative rail interchange drawings" means the document certified by the Secretary of State as the illustrative rail interchange drawings for the purposes of this Order ;

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

"lead local flood authority" means Leicestershire County Council;

"local highway authority" means Leicestershire County Council;

(**13**) S.I. 2002/3113.
(**14**) 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).
(**15**) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991 (c. 34) and was subsequently amended by section 33 of the Greater London Authority Act 2007 (c. 24) section 174 of the Planning Act 2008 (c.29) and paragraphs 1 and 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).
(**16**) 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 and S.I. 2013/755.
(**17**) S.I. 2015/376.

"local planning authority" means the North West Leicestershire District Council;

"maintain" includes inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace or improve unless that activity would result in a significant environmental effect not assessed in the environmental statement and any derivative of "maintain" must be construed accordingly;

"main site" means that part of the land within the Order limits comprising the areas of land described on the works plans as Works Nos. 2 to 5;

"management strategy for the safeguarding of the East Midlands Airport" means the document certified by the Secretary of State as the management strategy for the safeguarding of the airport for the purposes of this Order;

"NSIP 1" means the nationally significant infrastructure project comprising a rail freight interchange being part of the authorised development;

"NSIP 2" means the nationally significant infrastructure project comprising the construction of a highway being part of the authorised development;

"NSIP 3" means the nationally significant infrastructure project comprising works of alteration to a highway being part of the authorised development;

"occupation" means occupation of the authorised buildings other than for the purpose of constructing, fitting out, commissioning or site security;

"the Order limits" means the limits shown on the works plans represented by a red line 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(**18**);

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

"phase" means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the local planning authority under requirement 2 (phases of development);

"public sewer or drain" means a sewer or drain which belongs to the Environment Agency, an internal drainage board or a lead local flood authority or a sewerage undertaker;

"rail served warehousing" means warehousing to which goods can be delivered by rail either directly or by means of another form of transport;

"railway" has the same meaning as in the 2008 Act;

"regulation 6(2) plans" means the plans and drawings certified as the regulation 6(2) plans by the Secretary of State for the purposes of this Order;

"relevant body" means in respect of each of the highway works the body referred to in respect of each of those works in column (4) of the table in requirement 5 (design and planning of highway works);

"relevant highway authority" means in any provision of this Order the highway authority for any area of land to which that provision relates;

"relevant street authority" means in any provision of this Order the street authority for any area of land to which that provision relates;

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

(**18**) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

"relocation works" means work executed, or apparatus provided, under paragraph (2) of article 32 (apparatus and rights of statutory undertakers in stopped up streets);

"requirements" means the requirements set out in Schedule 2 (requirements);

"schedule of archaeological works" means the document certified by the Secretary of State as the schedule of archaeological works for the purposes of this Order;

"site waste management framework plan" means the document certified by the Secretary of State as the site waste management framework plan for the purposes of this Order;

"site wide travel plan" means the document certified by the Secretary of State as the site wide travel plan for the purposes of this Order;

"statutory aerodrome safeguarding authority" means the aerodrome licence holder for the airport;

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

"statutory utility" means a statutory undertaker for the purposes of the 1990 Act or a public communications provider as defined in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(**19**);

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

"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;

"sustainable transport working group" means the group of that name constituted under the provisions of the development consent obligation;

"traffic officer" means a person designated under section 2 (designation of Traffic Officers) of the Traffic Management Act 2004(**20**);

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

"the undertaker" means—

(a) Roxhill Developments Group Limited (company number 07436264), Roxhill Developments Limited (company number 07070462) and Roxhill (Kegworth) Limited (company number 07567544), all registered at Lumonics House, Valley Drive, Swift Valley, Rugby, Warwickshire CV21 1TQ; and

(b) subject to article 7 (benefit of order) any other person who has the benefit of this Order in accordance with section 156 (benefit of order granting development consent) of the 2008 Act for such time as that section applies to that person;

"verge" means any part of the road which is not a carriageway;

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

"water authority" means Severn Trent Water Limited (company number 02366686) registered at Severn Trent Centre, 2 St John's Street, Coventry, CV1 2LZ and any successor in function; and

(**19**) 2003 c. 21.
(**20**) 2004 c. 18.