
STATUTORY INSTRUMENTS

2014 No. 2269

**The A556 (Knutsford to Bowdon Improvement)
Development Consent Order 2014**

PART 7

MISCELLANEOUS AND GENERAL

Operational land for purposes of the 1990 Act

31. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Defence to proceedings in respect of statutory nuisance

32.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽¹⁾ (summary proceedings by persons aggrieved by statutory nuisances) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974⁽²⁾; or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development.

⁽¹⁾ 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

⁽²⁾ 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 25).

Protection of interests

33. Schedule 8 (protective provisions) has effect.

Certification of plans, etc.

34.—(1) As soon as practicable after the making of this Order, copies of—

- (a) the book of reference (revision Variant 1, February 2014);
- (b) the land plans (document references B1076602/OD/65/01 - B1076602/OD/65/07, revision 2, February 2014 as amended by substitution of variant land plans A556-CAP-0000-PJW-SK-G-0003, 0005, 0006 and 0007 Rev P01 for 03, 05, 06 and 07);
- (c) the rights of way and access plans (document references B1076602/OD/62/01 - B1076602/OD/62/07, revision 2, February 2014);
- (d) the works plans (document references B1076602/OD/105/01 - B1076602/OD/105/07, revision 2, February 2014);
- (e) the engineering drawings and sections (document references B1076602/OD/149/01 - B1076602/OD/149/23, revision 2, February 2014);
- (f) the environmental statement (document references:
 - (i) 6.1.1-6.1.3,
 - (ii) 6.2.1-6.2.20,
 - (iii) 6.3.1-6.3.7,
 - (iv) A556 Rule 8-10 HA WR 1A-C,
 - (v) Rule 8_10 HAWR 3 - ES Addendum January 2014,
 - (vi) Rule 8_10 HAWR 3 - ES Addendum January 2014 Appendices A-F);
- (g) the structure drawings (documents references SK071-SK080, A556-CAP-0000-MLG-SK-C-0001, A556-CAP-0000-BWN-SK-C-0001, A556-CAP-0000-MLI-SK-C-0003, A556-CAP-0000-CHP-SK-C-0003, A556-CAP-0000-MLI-SK-C-0002, A556-CAP-0000-A50-SK-C-0001, A556-CAP-0000-GRE-SK-C-0001, A556-CAP-0000-BEN-SK-C-0001, A556-CAP-0000-TAB-SK-C-0001 and A556-CAP-0000-OHU-SK-C-0001);
- (h) the junction design drawings (document references A556-CAP-0000-A50-SK-C-0002, A556-CAP-0100-DTR-SK-C-0022 and A556-CAP-0100-MER-SK-C-0027);
- (i) the lighting drawings (document references A556-CAP-1300-PJW-SK-C-0024 to A556-CAP-1300-PJW-SK-C-0028); and
- (j) the car parking drawings (document references A556-CAP-0000-DTR-SK-C-0147 and A556-CAP-0000-DTR-SK-C-0148),

must be certified by the Secretary of State as true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

35.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.
- (2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.
- (3) For the purposes of section 7 of the Interpretation Act 1978⁽³⁾ (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—
- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
 - (b) in any other case, the last known address of that person at the time of service.
- (4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—
- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
 - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—
- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
 - (b) the notice or document is capable of being accessed by the recipient;
 - (c) the notice or document is legible in all material respects; and
 - (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
 - (b) such revocation will be final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.
- (9) This article does not exclude the employment of any method of service not expressly provided for by it.
- (10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

(3) 1978 c. 30.

Arbitration

36. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Traffic regulation

37.—(1) This article applies to roads in respect of which the Secretary of State is not the traffic authority.

(2) 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, the Secretary of State may, for the purposes 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 Secretary of State.

(3) Subject to paragraph (7), the power conferred by paragraph (2) cannot be exercised after the expiry of 12 months from the opening of the authorised development for public use, but any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The Secretary of State 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 (5).

(5) The Secretary of State must not exercise the powers conferred by paragraph (2) unless the Secretary of State has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of the Secretary of State's intention to do so in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of the Secretary of State's intention to do so in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the Secretary of State's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the Secretary of State under paragraph (2)—

- (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 of the 1984 Act⁽⁴⁾ (power of local authorities to provide parking places), 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 to the Traffic Management Act 2004⁽⁵⁾ (road traffic contraventions subject to civil enforcement).
- (7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the Secretary of State from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.
- (8) Before exercising the powers conferred by paragraph (2) the Secretary of State must consult such persons as the Secretary of State considers necessary and appropriate and must take into consideration any representations made to the Secretary of State by any such person.
- (9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.
- (10) The powers conferred on the Secretary of State by this article with respect to any road have effect subject to any agreement entered into by the Secretary of State with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(4) Section 32 was 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.

(5) 2004 c. 18.