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STATUTORY INSTRUMENTS

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**2015 No. 147**

**The Cornwall Council (A30 Temple to  
Higher Carblake Improvement) Order 2015**

**PART 3**

**STREETS**

**Power to alter layout etc. of streets**

**8.—**(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the streets specified in column (2) of Schedule 3 (streets subject to alteration of layout) in the manner described in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1) but subject to paragraph (3) the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width or the carriageway in the street; and
- (d) make and maintain passing places or lay-bys.

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

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

(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 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(6) Paragraphs (3), (4) and (5) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

**Street works**

**9.—**(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and

(e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) 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.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

### **Construction and maintenance of new or altered streets**

**10.**—(1) Subject to paragraph (2), the streets authorised to be constructed, altered or diverted under this Order are to be public highways and are to be maintained by and at the expense of the highway authority.

(2) Where a street which is not and is not intended to be a public highway is constructed, altered, or diverted under this Order, the street (or part of the street as the case may be), when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, is to be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of damage resulting from its failure to maintain a street to which paragraph (2) applies, section 58 (special defence in action against a highway authority for damages for non-repair of highway)(1) of the 1980 Act applies as if that street were a highway maintainable at the public expense.

### **Classification of roads**

**11.**—(1) From the date on which the undertaker notifies the Secretary of State that the new dual carriageway referred to in Work No. 1 has been completed and open to through traffic—

- (a) the Secretary of State is to be the highway authority for this road; and
- (b) it is classified as a trunk road for the purposes of any enactment or instrument which refers to highways classified as trunk roads.

(2) From the date on which the undertaker commences the authorised development the section of road denoted D4/1 on the street plan—

- (a) ceases to be part of the A30 trunk road as if it had ceased to be a trunk road by virtue of an order under section 10(2) of the 1980 Act; and
- (b) is classified as part of the U6131 as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

### **Stopping up of streets**

**12.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of those Parts of that Schedule.

(2) No street specified in columns (1) and (2) of Parts 1 and 2 of Schedule 5 (being a street or private access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

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(1) As amended by section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

- (a) the new street to be substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
  - (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).
- (3) No street specified in columns (1) and (2) of Parts 3 and 4 of Schedule 5 (being a street or private access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.
- (4) The condition referred to in paragraph (3) is that—
- (a) the undertaker is in possession of the land; or
  - (b) there is no right of access to the land from the street concerned; or
  - (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
  - (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street has been stopped up under this article—
- (a) all rights of way over or along the street so stopped up are extinguished; and
  - (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.
- (6) Any person who suffers loss by the suspension or extinguishment 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.
- (7) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped-up streets).

### **Temporary prohibition or restriction of use of streets**

**13.—**(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
  - (b) subject to paragraph (3), prevent all persons from passing along the street.
- (2) Without limitation on the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.
- (3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.
- (4) The undertaker must not temporarily alter, divert, or prohibit or restrict the use of any street, without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld, except that this paragraph does not apply where the undertaker is the street authority.
- (5) 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.

(6) If, within 28 days of receiving an application for consent under paragraph (4), a street authority fails to notify the undertaker of its decision that street authority is deemed to have granted consent.

#### **Access to works**

- 14.** The undertaker may, for the purposes of the authorised development—
- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 6 (access to works); and
  - (b) with the approval of the local planning authority after consultation with the highway authority (where the highway authority is not the undertaker), form and lay out such other means of access 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.

#### **Agreements with street authorities**

- 15.—**(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;
  - (b) the strengthening, improvement, repair or reconstruction of any street;
  - (c) the maintenance of the structure of any bridge or tunnel carrying a street;
  - (d) any stopping up, alteration or diversion of a street authorised by this Order; or
  - (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (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 street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.