
STATUTORY INSTRUMENTS

2016 No. 818

The North Wales Wind Farms Connection Order 2016

PART 3

STREETS

Power to alter layout, etc., of streets

9.—(1) Subject to paragraph (3), the undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street in the case of permanent works as specified in column (2) of Part 1 of Schedule 3 (streets subject to permanent and temporary alteration of layout) in the manner specified in relation to that street in column (3) and in the case of temporary works as specified in column (2) of Part 2 of Schedule 3 (streets subject to permanent and temporary alteration of layout) in the manner specified in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing and maintaining the authorised development alter the layout of any street within the Order limits and, without limitation on the scope of this paragraph, the undertaker may—

- (a) permanently or temporarily altering the layout of any street or junction;
- (b) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle tract or verge within the street;
- (c) alter the level or increase the width of any kerb, footpath, footway, cycle track or verge;
- (d) reduce the width of the carriageway of the street;
- (e) make and maintain crossovers and passing place(s);
- (f) carry out works for the provision of parking places and unloading areas; and
- (g) execute any works to provide or improve sight lines.

(3) Unless otherwise agreed in writing with the street authority, 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) must not be exercised without the consent of the street authority.

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

(6) Paragraphs (2)(a), (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

10.—(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 and keep apparatus in the street;
- (d) maintain apparatus in the street or change its position;
- (e) carry out all necessary works required for the exercise of article 9 (power to alter layout, etc., of streets);
- (f) place and keep during the construction and installation of the authorised development scaffolding on any verge to a street;
- (g) remove or use all earth and materials in or under any street; and
- (h) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (g).

(2) The authority given by paragraph (1) is a statutory right for the purposes of section 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The powers conferred in paragraphs (1) and (2) are without prejudice to the powers of the undertaker under the Electricity Act 1989.

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

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

Construction and maintenance of new or altered means of access

11.—(1) Those parts of each means of access specified in Part 1 of Schedule 5 (access) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant highway authority and must be maintained by and at the expense of the undertaker until such time as the works are restored in accordance with article 9(3), or restored otherwise as agreed with the street authority.

(2) Those parts of each means of access specified in Part 4 of Schedule 5 (access) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from the date on which the undertaker no longer requires use of the access for the construction of the authorised development and from the expiry of that period by and at the expense of the relevant street authority.

(3) Those restoration works carried out pursuant to article 9(3) identified in Part 2 of Schedule 5 (access) must be completed to the reasonable satisfaction of the relevant highway authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the relevant highway authority (unless an agreement has been entered into between the undertaker and the relevant highway authority under article 15 in relation to the maintenance of these restoration works).

(4) Those restoration works carried out pursuant to article 9(3) identified in Part 3 of Schedule 5 (access) which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), a court is, in particular, to have regard to the following matters—

- (a) the character of the street including the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary prohibition or restriction of use of streets and public rights of way

12.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit the use of 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 prejudice to 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 non-motorised users (including pedestrians) going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition of use or restriction of use of a street under this article if there would otherwise be no such access, and ensure that relevant provision is made for residents to park and for services to access properties which may be affected by the temporary alteration, diversion, prohibition of use or restriction of use of a street under this article.

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily alter, divert, prohibit the use of or restrict the use of the streets specified in column (2) of Schedule 6 (temporary prohibition or restriction of the use of streets) to the extent specified in column (3) of that Schedule.

(5) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of—

- (a) any street specified in column (2) of Schedule 6 (temporary prohibition or restriction of the use of streets) without first consulting the street authority; and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent.

(6) If a street authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

(7) This article does not remove the requirement for the undertaker to obtain any order required under sections 1, 9 or 22BB of the 1984 Act.

Traffic regulation

13.—(1) Subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, at any time prior to the date of final commissioning—

- (a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (b) authorise the use as a parking place of any road; and
- (c) make provision as to the direction or priority of vehicular traffic on any road either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must not exercise the powers of article 12 in respect of prohibition or restrictions relating to vehicular traffic only on a road and paragraph (1) of this article unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention so to do to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention in the case of subparagraph (a).

(3) Any prohibition, restriction or other provision made by the undertaker under article 12 or paragraph (1) of this article—

- (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,

and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement)(1).

(4) In this article—

- (a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and
- (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

(5) If the traffic authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

Access to works

14. The undertaker may, for the purposes of the authorised development and with the consent of the relevant planning authority, after consultation with the relevant highway authority, form and lay out such other means of access or improve the existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(1) 2004 c.18. There are amendments to this Act not relevant to this Order.

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 under or over the authorised development) authorised by this Order;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (c) any alteration, diversion, prohibition or restriction in the use of a street authorised by this Order; or
 - (d) the carrying out in the street of any of the works referred to in article 11(1) (construction and maintenance of new or altered means of access).
- (2) Such an agreement may, without prejudice to the generality 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.