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STATUTORY INSTRUMENTS

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**2020 No. 1075**

The Great Yarmouth Third River Crossing  
Development Consent Order 2020

**PART 3**

**STREETS**

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

9.—(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 columns (1) and (2) of Schedule 3 (streets subject to permanent layout and other alterations) 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, or carry out any works in, any street within the Order limits 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 kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places or parking bays.

(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) must not be exercised without the consent of the street authority.

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**Commencement Information**

**II** Art. 9 in force at 15.10.2020, see [art. 1](#)

**Street works**

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any street as is within or adjacent to 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 undertaker must not carry out works under the authority of paragraph (1) without the consent of the street authority, which may attach reasonable conditions to any consent.

#### Commencement Information

**I2** Art. 10 in force at 15.10.2020, see [art. 1](#)

#### Application of the 1991 Act

**11.**—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which could have been carried out by the highway authority for the relevant highway in exercise of the powers conferred by section 64<sup>M1</sup> (dual carriageways and roundabouts) of the 1980 Act or section 184<sup>M2</sup> (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- section 56<sup>M3</sup> (power to give directions as to timing of street works);
- section 56A<sup>M4</sup> (power to give directions as to placing of apparatus);
- section 58<sup>M5</sup> (restrictions on works following substantial road works);
- section 58A<sup>M6</sup> (restriction on works following substantial street works);
- section 73A<sup>M7</sup> (power to require undertaker to re-surface street);
- section 73B<sup>M8</sup> (power to specify timing etc. of re-surfacing);
- section 73C<sup>M9</sup> (materials, workmanship and standard of re-surfacing);
- section 78A<sup>M10</sup> (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A<sup>M11</sup> (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (5) The provisions of the 1991 Act<sup>M12</sup> referred to in paragraph (4) are—
- section 54<sup>M13</sup> (advance notice of certain works), subject to paragraph (6);
  - section 55<sup>M14</sup> (notice of starting date of works), subject to paragraph (6);
  - section 57<sup>M15</sup> (notice of emergency works);
  - section 59<sup>M16</sup> (general duty of street authority to co-ordinate works);
  - section 60 (general duty of undertakers to co-operate);
  - section 68 (facilities to be afforded to street authority);
  - section 69 (works likely to affect other apparatus in the street);
  - section 75 (inspection fees);
  - section 76 (liability for cost of temporary traffic regulation); and
  - section 77 (liability for cost of use of alternative route),
- and all such other provisions as apply for the purposes of the provisions mentioned above.
- (6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.
- (7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets and other structures)—
- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under paragraph (3) of that article to maintain a street or to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
  - (b) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

#### Commencement Information

**I3** Art. 11 in force at 15.10.2020, see [art. 1](#)

#### Marginal Citations

- M1** Section 64 was amended by section 102 of, and Schedule 17 to the [Local Government Act 1985 \(c. 51\)](#) and section 168(2) of, and Schedule 9 to, the 1991 Act.
- M2** Section 184 was amended by sections 35, 37, 38 and 46 of the [Criminal Justice Act 1982 \(c. 48\)](#), [section 4](#) of, and paragraph 45(11) of Schedule 2 to, the [Planning \(Consequential Provisions\) Act 1990 \(c. 11\)](#); and section 168 of, and paragraph 9 of Part 1 of Schedule 8, and Schedule 9, to the 1991 Act.
- M3** Section 56 was amended by section 43 of the 2004 Act.
- M4** Section 56A was inserted by section 44 of the 2004 Act.
- M5** Section 58 was amended section 51 of the 2004 Act.
- M6** Section 58A was inserted by section 52(1) of the 2004 Act.
- M7** Section 73A was inserted by section 55(1) of the 2004 Act.
- M8** Section 73B was inserted by section 55(1) of the 2004 Act.
- M9** Section 73C was inserted by section 55(1) of the 2004 Act.
- M10** Section 78A was inserted by section 57(1) of the 2004 Act.
- M11** Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the 2004 Act.
- M12** Sections 54, 55, 57, 60, 68 and 69 were amended by section 40 of, and Schedule 1 to, the 2004 Act.
- M13** Section 54 was also amended by section 49(1) of the 2004 Act.
- M14** Section 55 was also amended by section 49(2) and 51(9) of the 2004 Act.
- M15** Section 57 was also amended by section 52(3) of the 2004 Act.

**M16** Section 59 was amended by section 42 of the 2004 Act.

### **Construction and maintenance of new, altered or diverted streets and other structures**

**12.**—(1) Subject to paragraph (2), any highway to be constructed, altered or diverted under this Order, including any culverts or other structures laid under or in it, must be maintained by and at the expense of the highway authority for that highway from its completion.

(2) A variable message sign provided under this Order must be maintained by the undertaker.

(3) 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) must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed in writing, 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.

(4) The new bridge and new bridge approaches must be maintained by and at the expense of the local highway authority from the date of their completion.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by the undertaker 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), the court must in particular have regard to the following matters—

- (a) the character of the street and 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 to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(7) Where any works to which this article relates are works to a highway for which the undertaker is not the highway authority, the date for completion of those works is to be such date as is agreed by the undertaker and the highway authority.

(8) The date of completion of any works referred to in paragraph (3) is to be such date as is agreed by the undertaker and the street authority.

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#### **Commencement Information**

**I4** Art. 12 in force at 15.10.2020, see [art. 1](#)

### Classification of roads

**13.**—(1) In this article “the specified road” means the length of new highway to be constructed commencing from the eastern arm of the existing A47 Harfreys's Roundabout junction, extending in an easterly direction to its junction with South Denes Road, and identified by solid green lines on the classification of roads plan.

(2) On the day on which the authorised development is completed and open for traffic the specified road is to be classified as the A1154 and the specified road is to be—

- (a) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
- (b) a classified road for the purpose of any enactment or instrument which refers to highways classified as classified roads,

as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

#### Commencement Information

**I5** Art. 13 in force at 15.10.2020, see [art. 1](#)

### Permanent stopping up of streets and private means of access

**14.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised development, stop up each of the streets and private means of access specified in column (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of streets and private means of access) to the extent specified in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in column (2) of Part 1 (streets for which a substitute is to be provided and other new streets to be provided) or Part 3 (private means of access for which a substitute is to be provided and other new private means of access to be provided) of Schedule 4 is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be substituted for it, which is specified in column (4) of Part 1 or Part 3 of Schedule 4, 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 or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority (where that authority is not the undertaker), between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in column (2) of Part 2 (street to be stopped up for which no substitute is to be provided) or Part 4 (private means of access to be stopped up for which no substitute is to be provided) of Schedule 4 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 or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land;
- (b) there is no right of access to the land from the street or private means of access concerned;
- (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or

- (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street or private means of access has been stopped up under this article—
  - (a) all rights of way over or along the street or private means of access 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 or private means of access 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 (determination of questions of disputed compensation) of the 1961 Act.
- (7) This article is subject to article 38 (apparatus and rights of statutory undertakers in stopped up streets).

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**Commencement Information**

**I6** Art. 14 in force at 15.10.2020, see [art. 1](#)

**Temporary stopping up and restriction of use of streets**

- 15.**—(1) The undertaker, during and for the purposes of constructing the authorised development, may—
- (a) temporarily, stop up, alter or divert any street, or any part of it, and
  - (b) for any reasonable time and subject to paragraph (3)—
    - (i) prevent all persons from passing along any street or part of a street; or
    - (ii) restrict or prohibit the use of any street, or of any part of it, by vehicles, or vehicles of any class, or by pedestrians, to such extent and subject to such conditions or exceptions as the undertaker may consider necessary.
- (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 which is 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 stopping up, alteration or diversion, or prohibition or restriction of the use of a street under this article if there would otherwise be no such access.
- (4) The undertaker must not temporarily stop up, alter or divert any street without the consent of the street authority which may attach reasonable conditions to any consent.
- (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.

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**Commencement Information**

**I7** Art. 15 in force at 15.10.2020, see [art. 1](#)

**Access to works**

- 16.** The undertaker may, for the purposes of the authorised development, form and lay out 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.

**Commencement Information**

**18** Art. 16 in force at 15.10.2020, see [art. 1](#)

**Agreements with street authorities**

**17.**—(1) The following provisions of this article apply where, in relation to an existing or proposed street, the undertaker is not or (as the case may be) will not be the street authority.

- (2) 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 over or under any element of the authorised development;
  - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
  - (c) the maintenance of the structure of any bridge or tunnel carrying a street;
  - (d) any stopping up, alteration, or diversion of, or prohibition or restriction of the use of, a street (whether temporary or permanent) authorised by this Order;
  - (e) the construction in the street of any of the works referred to in article 10(1) (street works); or
  - (f) such other works as the street authority and the undertaker may agree.
- (3) Such an agreement may, without limitation on the scope of paragraph (2)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) specify a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

**Commencement Information**

**19** Art. 17 in force at 15.10.2020, see [art. 1](#)

**Traffic regulation measures**

**18.**—(1) Subject to the provisions of this article, the undertaker may, for the purposes of the authorised development—

- (a) make provision, in respect of those lengths of roads specified in column (2) of Part 1 (prohibitions and restrictions of waiting, loading, etc.) of Schedule 5 (traffic regulation measures) as to the permitting, prohibition or restriction of the waiting, parking, loading or unloading of vehicles as specified in column (3) of that Part of that Schedule;
- (b) make provision, in respect of those lengths of roads specified in column (2) of Part 2 (direction of travel, entry, etc.) of Schedule 5, as to the direction of travel of vehicular traffic or the entry of pedestrians, vehicles or other classes of road user as specified in column (3) of that Part of that Schedule;
- (c) in respect of those lengths of roads specified in column (2) of Part 3 (variation and revocation of existing orders) of Schedule 5, make provision revoking or varying the orders specified in column (3) of that Part of that Schedule in the manner specified in column (4) of that Part of that Schedule; and

- (d) make provision revoking, amending or suspending in whole or in part any order made, or having effect as if made, under the 1984 Act in so far as it is inconsistent with any prohibition, restriction or other provision made by the undertaker under the preceding provisions of this paragraph.

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may make provision, in so far as necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance and operation of the authorised development—

- (a) as to the speed at which vehicles may proceed along any road;
- (b) permitting, prohibiting or restricting the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorising the use as a parking place of any road;
- (d) as to prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;
- (e) permitting, prohibiting or restricting the use by vehicular traffic of any road;
- (f) permitting, prohibiting or restricting the use by pedestrians or other non-vehicular traffic of any road forming part of, or adjacent to, the new bridge; and
- (g) revoking, amending or suspending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 24 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) Subject to paragraph (5) and (in relation to provision made under paragraph (1)) so far as consistent with the specifications contained in column 3 of the Parts of Schedule 5, the provision made by the undertaker under paragraph (1) and (2) may, as the undertaker considers necessary or expedient, be made so as to apply—

- (a) to all road users of a specified class, or to specified categories of road user within that class;
- (b) during all times and circumstances or only at specified times and circumstances;
- (c) permanently or for a specified period; and
- (d) subject to specified exceptions, limitations or conditions, including any which are necessary or expedient in consequence of the provision of a crossing under paragraph (11).

(5) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011<sup>M17</sup> when used in accordance with regulation 3(5) of those Regulations.

(6) Before exercising the powers conferred by paragraph (2) the undertaker must consult the chief officer of police in whose area the road is situated and (where the undertaker is not the traffic authority for that road) the traffic authority and have regard to any representations made.

(7) The undertaker must not exercise the powers conferred by paragraphs (1) or (2) unless the undertaker has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) except in a case of emergency, 14 days' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,

to the chief officer of police in whose area the road is situated and (where the undertaker is not the traffic authority for that road) to the traffic authority; and

- (b) published the undertaker's intention in such manner as the undertaker considers appropriate.

(8) Any prohibition, restriction or other provision made under paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) or (2) within a period of 24 months from the opening of the authorised development for public use.

(9) Any prohibition, restriction or other provision made by the undertaker under paragraphs (1) or (2) (“the provision”)—

- (a) must be made by written instrument in such form as the undertaker considers appropriate;
- (b) must be publicised by the undertaker in such manner as the undertaker considers appropriate;
- (c) has effect as if duly made by—
- (i) the traffic authority in whose area the relevant road is situated as an order made under the 1984 Act if the provision is one which could have been so made by that traffic authority; or
- (ii) the local authority in whose area the road is situated, as an order under section 32<sup>M18</sup> (power of local authorities to provide parking places) of the 1984 Act if the provision is one which could have been so made by that local authority;

and accordingly—

- (iii) may (without prejudice to the undertaker's powers under paragraph (2) during the period specified in paragraph (3) be suspended, varied or revoked by the relevant traffic authority or local authority in accordance with the 1984 Act; and
- (iv) may be enforced by means of civil enforcement of contraventions under Part 6 of the 2004 Act to the same extent as if the provision had been contained in an order made by the traffic authority or a local authority.

(10) In making provision by written instrument under paragraph (9) the undertaker may give effect to the provision as it thinks fit including by way of—

- (a) amending or revoking an existing order or other provision made under the 1984 Act; or
- (b) consolidating the provision made by the instrument with the provision made by an existing order or other provision made under the 1984 Act.

(11) The undertaker may provide crossings of the types and locations shown on the traffic regulation measures plans.

(12) A crossing provided under paragraph (11) has effect as a pedestrian crossing duly established under section 23<sup>M19</sup> (powers of strategic highways companies and local traffic authorities with respect to pedestrian crossings) of the 1984 Act by the local traffic authority for the relevant road if the crossing is one which could have been so established by the local traffic authority.

(13) A crossing provided under paragraph (11) must accord with any requirements of the 2016 Regulations and Directions which apply to a crossing of the type provided (and if so provided, and the crossing is of a type whose provision is authorised by the 2016 Regulations and Directions, the crossing has effect as if so provided).

(14) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(15) The highways comprised in the new bridge and the new bridge approaches are deemed to be highways to which the provisions of section 127(1)<sup>M20</sup> (footpaths, bridleways, restricted byways and byways open to all traffic) of the 1984 Act apply.

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**Commencement Information**

**I10** Art. 18 in force at 15.10.2020, see [art. 1](#)

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**Marginal Citations**

**M17** S.I. 2011/935.

**M18** Section 32 was amended by sections 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.

**M19** Section 23 was amended by section 102 of, and Schedule 17 to, the [Local Government Act 1985](#) (c. 51), [section 168\(1\)](#) and (2) of, and paragraph 35(3) and (4) of Schedule 8 and Schedule 9 to, the 1991 Act, section 1(6) of and paragraph 78 of Part 2 of Schedule 1 to, the [Infrastructure Act 2015](#) (c. 7) and section 51 of, and paragraph 23 of Part 4 of Schedule 10 to, the [Deregulation Act 2015](#) (c. 20).

**M20** Section 127(1) was amended by [S.I. 2006/1177](#).

**Disapplication of obligations where undertaker is the street authority**

**19.** Any obligation imposed on the undertaker by this Order in relation to a street or part of a street to—

- (a) obtain the consent or agreement of the street authority; or
- (b) to carry out any works or activity to the satisfaction of the street authority,

does not apply where, in relation to the relevant street or part of a street, the undertaker is the street authority.

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**Commencement Information**

**I11** Art. 19 in force at 15.10.2020, see [art. 1](#)

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**Changes to legislation:**

There are currently no known outstanding effects for the The Great Yarmouth Third River Crossing Development Consent Order 2020, PART 3.