

---

STATUTORY INSTRUMENTS

---

**2021 No. 125**

**The A303 Sparkford to Ilchester Dualling  
Development Consent Order 2021**

**PART 3  
STREETS**

**Street works**

**11.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are 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) Subject to article 12 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

**Application of the 1991 Act**

**12.**—(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, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64(1) (dual carriageways and roundabouts) of the 1980 Act or section 184(2) (vehicle crossings over footways and verges) of that Act.

---

(1) 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.

(2) Section 184 was amended by section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and paragraph 9 of Schedule 8 and Schedule 9 to, the 1991 Act.

(2) In Part 3 of the 1991 Act references 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 conferred by this Order—

- (a) section 56(3) (provisions to give directions as to timing of street works);
- (b) section 56A(4) (power to give directions as to placing of apparatus);
- (c) section 58(5) (restriction on works following substantial road works);
- (d) section 58A(6) (restriction on works following substantial street works); and
- (e) Schedule 3A(7) (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 and highways) 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(8) referred to in paragraph (4) are—

- (a) section 54(9) (advance notice of certain works), subject to paragraph (6);
- (b) section 55(10) (notice of starting date of works), subject to paragraph (6);
- (c) section 57(11) (notice of emergency works);
- (d) section 59(12) (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) 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 13 (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 that article to maintain a street or

---

(3) Section 56 was amended by sections 40 and 43 of the Traffic Management Act 2004 (c. 18).

(4) Section 56A was inserted by section 44 of the Traffic Management Act 2004.

(5) Section 58 was amended by section 51 of the Traffic Management Act 2004.

(6) Section 58A was inserted by section 52(1) of the Traffic Management Act 2004.

(7) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.

(8) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.

(9) Section 54 was also amended by section 49(1) of the Traffic Management Act 2004.

(10) Section 55 was also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

(11) Section 57 was amended by section 52(3) of the Traffic Management Act 2004.

(12) Section 59 was amended by section 42 of the Traffic Management Act 2004.

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 to which the provisions of Part 3 of the 1991 Act apply.

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

**13.**—(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road which is not de-trunked by this Order) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(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 and unless otherwise agreed in writing with the street authority, 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) Where a highway described in Part 2A (roads to be de-trunked and vested in Somerset County Council) of Schedule 3 (classification of roads, etc.) is de-trunked under this Order—

(a) section 265(13) (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and

(b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of completion.

(5) Where a highway described in Part 2B (roads to be de-trunked and remain under the control and management of the undertaker) of Schedule 3 to this Order is de-trunked under this Order, section 265(7) of the 1980 Act does not apply in respect of that de-trunking, and the undertaker shall remain the highway authority for the highway in question.

(6) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over or under a trunk road, the highway surface must from its completion be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the undertaker.

(7) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over another highway which is not a trunk road, both the highway surface and the structure of the bridge must be maintained by and at the expense of the local highway authority from the date of their completion.

(8) 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.

---

(13) Section 265 was amended by section 146 of, and paragraph 45 of Schedule 13 to, the 1984 Act and section 1(6) of, and paragraph 52 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(9) For the purposes of a defence under paragraph (8), 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.

(10) Any street formed on the Order land which is not open to vehicular use by the public, and which is used by the undertaker for the purposes of maintaining the authorised development, must be maintained by and at the expense of the undertaker or any successor in function, as the landowner of the land on which the street is situated.

### **Classification of roads, etc.**

**14.—**(1) On the date on which the roads described in Part 1 (trunk roads) of Schedule 3 are completed and open for traffic, they are to become trunk roads as if they had become so by virtue of an order under section 10(2)(14) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) On such day as the undertaker may determine, the roads described in Parts 2A and 2B of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) On the date on which the roads described in Parts 3 and 4 (classified roads) of Schedule 3 are completed, they are to become classified roads 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.

(4) On the date on which the roads described in Part 5 (unclassified roads) of Schedule 3 are completed, they are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(5) On and after the date on which the roads described in Part 6 (speed limits) of Schedule 3 are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit specified in column (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(6) Unless otherwise agreed with the local highway authority, the public rights of way set out in Part 11 (public rights of way) of Schedule 3 and identified on the rights of way and access plans are

---

(14) Section 10(2) was amended by section 22(2)(a) of the 1991 Act, and by section 1(6) of, and paragraph 10(2) of Schedule 1 to, the Infrastructure Act 2015 c. 7).

to be constructed by the undertaker in the specified locations and open for use no later than the date on which the authorised development is open for traffic.

(7) On such day as the undertaker may determine, the orders specified in column (3) of Part 10 (revocations and variations of orders) of Schedule 3 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(8) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

(9) Any determination of a day made by the undertaker under this article does not take effect unless the notification requirements set out in Part 12 (notification of dates to be determined) of Schedule 3 have been complied with.

(10) The phasing in relation to the classification or declassification of roads or parts of roads referred to in paragraphs (1) to (4) have effect from the date or dates notified by the undertaker in accordance with the notification requirements specified in paragraph (9).

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

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

- (a) divert the traffic from the street or highway; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or highway.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street or highway temporarily stopped up or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site for the carrying out of the works.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or highway affected by the temporary stopping up, alteration, diversion or restriction of a street or highway under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up, alter, divert or restrict the use of any street or highway for which it is not the street or highway authority without the consent of the street or highway authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed.

(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 a street authority or local highway 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.

(7) The undertaker will consult South Somerset District Council before seeking any consent under this article.

(8) In paragraph (2), “temporary working site” means any area within the Order limits which is occupied for the purposes of carrying out the works in or in the vicinity of that area and within which materials may only be stored temporarily.

**Permanent stopping up and restriction of use of highways, streets and private means of access**

16.—(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 and private means of access specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 4 (being a street or private means of 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—

- (a) the new street or private means of access to be constructed and 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 or local highway 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 or local highway authority, between the commencement and termination points for the stopping up of the highway, street or private means of access until the completion and opening of the new highway, street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Parts 1 and 3 of Schedule 4 (being a street or private means of 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 highway, 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 highway, street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) On and after a date to be determined by the undertaker, the owners and occupiers of land which is accessed along the tracks and other accesses to be created on Order Land and listed in column (4) of Part 4 Schedule 4, are entitled to access that land at all times with or without vehicles across or along those tracks and other accesses.

(6) The date to be determined under paragraph (5) must not be later than the date on which the private means of access listed in column (2) of Part 4 of Schedule 4 is stopped up.

(7) In paragraph (5), “owners and occupiers of land” includes their agents and contractors and any person who has the permission of the owner or occupier to access the land.

(8) Where a highway, street or private means of access has been stopped up under this article—

- (a) all rights of way over or along the highway, 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 highway, street or private means of access as is bounded on both sides by land owned by the undertaker.

(9) The undertaker may, in connection with the carrying out of the authorised development, alter the private means of access specified in column (1) of Part 5 (alterations to private means of access) of Schedule 4 as specified in column (2) of that Part.

(10) 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.

(11) This article is subject to article 36 (apparatus and rights of statutory undertakers in stopped up streets).

### **Creation or improvement of means of access to works**

17. 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.

### **Clearways, prohibitions and restrictions**

18.—(1) On and after such day as the undertaker may determine, except as provided in paragraph (4), no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 7 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.), except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) On and after such day as the undertaker may determine, except as provided in paragraph (4) and (5), no person may cause or permit any vehicle to use any part of the lengths of road described in column (2) of Part 8 (traffic regulation measures (weight restrictions)) of Schedule 3 where that vehicle exceeds the weight restriction specified in column (3) of that Part.

(3) On and after such day as the undertaker may determine, except as provided in paragraph (4), no person may cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 9 (traffic regulation measures (waiting restrictions)) of Schedule 3 for a period exceeding two hours.

(4) Nothing in paragraphs (1), (2) or (3) applies—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—

- (i) the removal of any obstruction to traffic;
- (ii) the maintenance, improvement, reconstruction or operation of the road;
- (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the Electronic Communications Code) to the Communications Act 2003<sup>(15)</sup>; or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

- (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
- (ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;

---

<sup>(15)</sup> 2003 c. 21. Schedule 3A was inserted by paragraph 1 of Schedule 1 to the Digital Economy Act 2017 (c. 30).

- (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991<sup>(16)</sup>; or
- (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000<sup>(17)</sup>; or
- (c) in relation to a vehicle waiting when the person in control of it is—
  - (i) required by law to stop;
  - (ii) obliged to stop in order to avoid an accident; or
  - (iii) prevented from proceeding by circumstances outside the person’s control.
- (5) Nothing in paragraph (2) applies in relation to a vehicle being used—
  - (a) for the conveyance of goods or merchandise to or from any premises that are reasonably accessible only from the highway to which the restriction in question applies;
  - (b) vehicles being used in conjunction with any building operation or demolition on land in or adjacent to the highway to which the restriction applies;
  - (c) vehicles being used for the laying, erection, alteration or repair of any apparatus on land adjacent to the highway to which the restriction applies;
  - (d) vehicles being used by the emergency services or on behalf of a local authority;
  - (e) public service vehicles within the meaning of section 1(1) (definition of public service vehicle) of the Public Passenger Vehicles Act 1981<sup>(18)</sup>.
- (6) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraphs (1) and (3) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.
- (7) Paragraphs (1), (2), (3), (4), (5) and (6) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.
- (8) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004<sup>(19)</sup>.

### **Traffic regulation**

- 19.**—(1) This article applies to roads in respect of which the undertaker 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 undertaker 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,

---

<sup>(16)</sup> 1991 c. 56.

<sup>(17)</sup> 2000 c. 26.

<sup>(18)</sup> 1981 c. 14.

<sup>(19)</sup> 2004 c. 18.

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 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) The undertaker 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 undertaker must not exercise the powers conferred by paragraph (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) 4 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 temporarily,

to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) advertised the undertaker's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker 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 (power of local authorities to provide parking spaces) of the 1984 Act,

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 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(20).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker 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 undertaker must consult South Somerset District Council and such other persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker 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 undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

---

**Status:** *This is the original version (as it was originally made).*

---