
STATUTORY INSTRUMENTS

2024 No. 393

The National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024

PART 3

STREETS

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 6 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street, or carry out any works to strengthen or repair the street;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street (including signage);
- (e) maintain, renew or alter apparatus in or on the street or change its position;
- (f) execute any works to provide or improve sight lines required by the highway authority;
- (g) execute and maintain any works to provide hard and soft landscaping;
- (h) carry out re-lining and placement of new temporary markings; and
- (i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h).

(2) Without limiting the scope of the powers conferred by paragraph 1 but subject to the consent of the street authority, which consent must not be unreasonably withheld or delayed, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at sub-paragraph 1(a) to (i) and paragraph 3 of article 12 (application of the 1991 Act) applies.

(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 days beginning with the date on which the application was received, that authority will be deemed to have granted consent.

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

(5) The powers conferred in paragraphs (1) and (2) are without limitation of the powers of the undertaker under the 1989 Act (1).

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

(7) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (3) apply to that application.

Application of the 1991 Act

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

- (a) they are of a description mentioned in any of sub-paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related matters) of the 1991 Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 (vehicle crossings over footways and verges) of the 1980 Act.

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

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

- (a) section 53(2) (the street works register);
- (b) section 56(3) (power to give directions as to timing of street works);
- (c) section 56A(4) (power to give directions as to placing of apparatus);
- (d) section 58(5) (restrictions on works following substantial road works);
- (e) section 58A(6) (restriction on works following substantial street works);
- (f) section 73A(7) (power to require undertaker to re-surface street);
- (g) section 73B(8) (power to specify timing etc. of re-surfacing);
- (h) section 73C(9) (materials, workmanship and standard of re-surfacing);
- (i) section 78A(10) (contributions to costs of re-surfacing by undertaker); and
- (j) Schedule 3A(11) (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 carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure of streets, cycle tracks and public rights of way) whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act referred to in paragraph (4) are—

- (a) section 54(12) (advance notice of certain works), subject to paragraph (6);

(2) Section 53 was added by section 45 of the Traffic Management Act 2004.

(3) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004.

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

(5) Section 58 was amended by sections 40 and 51 of, and Schedule 1 to, the Traffic Management Act 2004.

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

(7) Section 73A was inserted by section 55 of the Traffic Management Act 2004.

(8) Section 73B was inserted by section 55 of the Traffic Management Act 2004.

(9) Section 73C was inserted by section 55 of the Traffic Management Act 2004.

(10) Section 78A was inserted by section 57 of the Traffic Management Act 2004.

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

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

- (b) section 55(13) (notice of starting date of works), subject to paragraph (6);
- (c) section 57(14) (notice of emergency works);
- (d) section 59(15) (general duty of street authority to co-ordinate works);
- (e) section 60(16) (general duty of undertakers to co-operate);
- (f) section 68(17) (facilities to be afforded to street authority);
- (g) section 69(18) (works likely to affect other apparatus in the street);
- (h) section 71(19) (materials, workmanship and standard of reinstatement);
- (i) section 76(20) (liability for cost of temporary traffic regulation); and
- (j) section 77(21) (liability for cost of use of alternative route);

and all such other provisions as apply for the purposes of the provisions mentioned in sub-paragraphs (a) to (j).

(6) Sections 54 (advance notice of certain works) and 55 (notice of starting date of works) of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 (notice of emergency works) of that Act to emergency works were a reference to a temporary closure, stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Power to alter layout, etc. of streets

13.—(1) The undertaker may, for the purposes of carrying out the authorised development—

- (a) permanently alter the layout of, or carry out any works in, a street specified in column (1) Part 1 of Schedule 7 (streets subject to permanent alteration of layout) in the manner specified in relation to that street in column (2); and
- (b) temporarily alter the layout of, or carry out any works in, a street specified in column (1) Part 2 of Schedule 7 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street within or adjacent to the Order limits and the layout of any street having a junction with such a street; and, without limiting 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, central reservation or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;

(13) Section 55 was amended by sections 49, 51 of, and schedule 1 to, the Traffic Management Act 2004 (c. 18).

(14) Section 57 was amended by section 52 of, and Schedule 1 to, the Traffic Management Act 2004.

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

(16) Section 60 was amended by Schedule 1 to the Traffic Management Act 2004.

(17) Section 68 was amended by Schedule 1 to the Traffic Management Act 2004.

(18) Section 69 was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

(19) Section 71 was amended by Schedule 1 to the Traffic Management Act 2004.

(20) 1991 c. 18.

(21) 1991 c. 18.

- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
 - (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and
 - (i) execute any works to provide or improve sight lines required by the highway authority.
- (3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.
- (4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority (such consent not to be unreasonably withheld or delayed).
- (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 received, it is deemed to have granted consent.
- (6) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

Temporary closure of streets, cycle tracks and public rights of way

14.—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily close, alter or divert any street, cycle track or public right of way shown on the access, rights of way and public rights of navigation plans or within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street, cycle track or public right of way.

(2) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street, cycle track or public right of way which has been temporarily closed, altered or diverted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street, cycle track or public right of way affected by the temporary closure, alteration or diversion under this article if there would otherwise be no such reasonable access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily close, alter or divert the streets, cycle tracks or public rights of way specified in column (2) of Parts 1 and 2 of Schedule 8 (streets, cycle tracks or public rights of way to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the access, rights of way and public rights of navigation plan, in column (3) of that Schedule, and, if it does so in respect of a street, cycle track or public right of way specified in Part 1 of Schedule 8, must provide the temporary diversion as specified in column (4) of that Part.

(5) The undertaker must not temporarily close, alter or divert—

- (a) any street, cycle track or public right of way specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street, cycle track or public right of way without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street, cycle track or public right of way in column (2) of Part 1 of Schedule 8 (streets, cycle tracks or public rights of way to be temporarily closed).

(7) 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 (determination of questions of disputed compensation) of the 1961 Act.

(8) If a street authority which receives an application for consent under paragraph (5)(b) 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 received, it is deemed to have granted consent.

(9) Any application for consent under paragraph (5)(b) must include a statement that the provisions of paragraph (8) apply to that application.

Use of private roads for construction

15.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Access to works

16.—(1) 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 column (2) of Schedule 9 (access to works); and
- (b) with the consent of the relevant planning authority (such consent not to be unreasonably withheld or delayed), after consultation with the relevant highway authority, 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.

(2) If a relevant planning authority which receives an application for consent under paragraph (1)(b) 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 received, it is deemed to have granted consent.

(3) Any application for consent under paragraph (1)(b) must include a statement that the provisions of paragraph (2) apply to that application.

Construction, alteration and maintenance of streets

17.—(1) Any street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by the street authority from its completion.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by the street authority from its completion.

(3) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must, unless otherwise agreed with the street authority, be

deemed as dedicated as part of the public highway on the expiry of the period of 12 months from its completion.

(4) 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.

(5) For the purposes of a defence under paragraph (4), 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.

(6) In determining who is the street authority in relation to a street for the purposes of Part III of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) must be disregarded.

Agreements with street authorities

18.—(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 over or under an electric line authorised by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
- (c) any temporary closure, stopping up, alteration or diversion 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 (street works); or
- (e) such other matters as the parties may agree.

(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 the street authority specifying a reasonable time for the completion of the works;
- (c) contain such terms as to payment and other matters as the parties consider appropriate; and
- (d) such other matters as the parties may agree.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
