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STATUTORY INSTRUMENTS

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**2022 No. 475**

**INFRASTRUCTURE PLANNING**

**The M54 to M6 Link Road Development Consent Order 2022**

*Made* - - - - 21st April 2022

*Coming into force* - - - 12th May 2022

An application has been made to the Secretary of State under section 37 of the Planning Act 2008(1) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(2) for an Order granting development consent.

The application was examined by a Panel of two members (“the Panel”) (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(3).

The Panel, having considered the representations made and not withdrawn and having examined the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114(4), 115(5), 117(6), 120(7), 122(8) and 123(9) of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5(10) to, the 2008 Act, makes the following Order—

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- (1) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
  - (2) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I. 2019/734 and S.I. 2020/1534.
  - (3) S.I. 2010/103, amended by S.I. 2012/635.
  - (4) Section 114 was amended by paragraph 55 of Part 1 of Schedule 11 to the Localism Act 2011.
  - (5) Section 115 was amended by paragraph 56 of Part 2 of Schedule 13 and Part 20 of Schedule 25 to the Localism Act, section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
  - (6) Section 117 was amended by paragraph 58 of Part 1 of Schedule 13 to the Localism Act 2011.
  - (7) Section 120 was amended by section 140 of, and paragraph 60 of Part 1 of Schedule 13 to, the Localism Act 2011.
  - (8) Section 122 was amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
  - (9) Section 123 was amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
  - (10) Part 1 of Schedule 5 was amended by paragraph 4 of Part 1 of Schedule 8 and Part 2 of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23), paragraph 71 of Part 1 of Schedule 13 to the Localism Act 2011 and paragraph 76 of Part 3 of Schedule 6 to the Wales Act 2017.

## PART 1

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the M54 to M6 Link Road Development Consent Order 2022 and comes into force on 12th May 2022.

#### Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961<sup>(11)</sup>;

“the 1965 Act” means the Compulsory Purchase Act 1965<sup>(12)</sup>;

“the 1980 Act” means the Highways Act 1980<sup>(13)</sup>;

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981<sup>(14)</sup>;

“the 1984 Act” means the Road Traffic Regulation Act 1984<sup>(15)</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990<sup>(16)</sup>;

“the 1991 Act” means the New Roads and Street Works Act 1991<sup>(17)</sup>;

“the 2004 Act” means the Traffic Management Act 2004<sup>(18)</sup>;

“the 2008 Act” means the Planning Act 2008<sup>(19)</sup>;

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development described in Schedule 1 (authorised development) or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“the book of reference” means the book of reference referred to in Schedule 10 (documents to be certified) and certified by the Secretary of State as the book of reference for the purposes of this Order;

“British Telecommunications Plc” means the company registered in England and Wales, company number 01800000, whose registered address is 81 Newgate Street, London EC1A 7AJ;

“building” includes any structure or erection or any part of a building, structure or erection;

“Cadent Gas Ltd” means the company registered in England and Wales, company number 10080864, whose registered address is Ashbrook Court, Prologis Park, Central Boulevard, Coventry CV7 8PE;

“carriageway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act and includes part of a carriageway;

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(11) 1961 c. 33.  
(12) 1965 c. 56.  
(13) 1980 c. 66.  
(14) 1981 c. 66.  
(15) 1984 c. 27.  
(16) 1990 c. 8.  
(17) 1991 c. 22.  
(18) 2004 c.18.  
(19) 2008 c. 29.

“classification of roads plans” means the plans of that description referred to in Schedule 10 (documents to be certified) certified by the Secretary of State as the classification of road plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works, ecological surveys and mitigation works, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, diversion and laying of underground apparatus and site clearance, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“cycle track” has the same meaning as in section 329(1) of the 1980 Act and includes part of a cycle track<sup>(20)</sup>;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form,

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003<sup>(21)</sup>;

“the engineering drawings and sections” means the drawings and sections referred to in Schedule 10 (documents to be certified) and certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

“environmental statement” means the document of that description submitted with the application for this Order, referred to in Schedule 10 (documents to be certified) and certified as the environmental statement by the Secretary of State for the purposes of this Order;

“footway” and “footpath” have the same meaning as in section 329(1) of the 1980 Act and include part of a footway or footpath;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act and “highway” includes part of a highway;

“the land plans” means the plans referred to in Schedule 10 (documents to be certified) and certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation);

“maintain” in relation to the authorised development includes, to the extent assessed in the environmental statement, to inspect, repair, adjust, alter, remove or reconstruct and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the limits of land to be acquired or used permanently or temporarily shown on the land plans and works plans within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981<sup>(22)</sup>;

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<sup>(20)</sup> The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

<sup>(21)</sup> 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

<sup>(22)</sup> 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

“relevant planning authority” means in any given provision of this Order, the planning authority for the area to which the provision relates;

“Severn Trent Water Ltd” means the company registered in England and Wales, company number 02366686, whose registered office address is Severn Trent Centre, 2 St John’s Street, Coventry, CV1 2LZ;

“South Staffordshire Plc” means the company registered in England and Wales, company number 04295398, whose registered office address is Green Lane, Walsall, West Midlands, WS2 7PD;

“special road” means a highway which is a special road in accordance with section 16(23) (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land), of the 2008 Act;

“street” means a street within the meaning of section 48(24) (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“streets, rights of way and access plans” means the plans referred to in Schedule 10 (documents to be certified) and certified as the streets, rights of way and access plans by the Secretary of State for the purposes of this Order;

“traffic authority” has the same meaning as in Section 121A (traffic authorities) of the 1984 Act(25);

“tree preservation order/impact removal plans” means the drawings referred to in Schedule 10 (documents to be certified) and certified as the tree preservation order/impact removal plans by the Secretary of State for the purposes of this Order;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10(26) (general provision as to trunk roads) or 19(1)(27) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order or direction under section 10 of that Act;
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means National Highways Limited (company number 09346363) whose registered address is Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“Western Power Distribution Plc” means the company registered in England and Wales, company number 09223384 whose registered address is Avonbank, Feeder Road, Bristol, Avon, BS2 0TB; and

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(23) Section 16 was amended by paragraphs 21 and 24 of Schedule 2 to the 2008 Act and section 1(6) of , and paragraphs 1 and 13 of Part 1 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(24) Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26).

(25) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to the 1991 Act, and amended by section 1(6) of, and paragraphs 70 and 95 of Schedule 1 to, the Infrastructure Act 2015 (c. 7) and S.I. 2001/1400.

(26) Section 10 was amended by section 22(2) of the 1991 Act, by section 36 of, and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1(6) of, and paragraph 10 of Schedule 1 to, the Infrastructure Act 2015.

(27) Section 19(1) was amended by section 1(6) of, and paragraph 15 of Schedule 1 to, the Infrastructure Act 2015.

“the works plans” means the plans referred to in Schedule 10 (documents to be certified) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the streets, rights of way and access plans or the classification of road plans.

(6) References in this Order to numbered works are references to works as numbered in Schedule 1 (authorised development).

(7) The provisions of the Neighbourhood Planning Act 2017(28), insofar as they relate to temporary possession of land under articles 29 (temporary use of land for carrying out the authorised development) and 30 (temporary use of land for maintaining the authorised development), do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 30(11), any maintenance of any part of the authorised development.

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by the Order**

3.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

(3) Nothing in this Order prevents the carrying out of operations consisting of archaeological investigations, non-intrusive investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements immediately upon this Order coming into force.

#### **Maintenance of authorised development**

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.