
 STATUTORY INSTRUMENTS

202[] No.

TRANSPORT AND WORKS, ENGLAND

CANALS AND INLAND WATERWAYS, ENGLAND

 The Ashby de la Zouch Canal Extension (Transfer) Order
 [202[]]

Made - - - - - ***

Coming into force - - - - - ***

An application has been made to the Secretary of State, in accordance with Rule 9 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(a) (“the Applications Rules”), for an Order under sections 3(1)(a) and 5 of the Transport and Works Act 1992(b) (“the 1992 Act”).

Leicestershire County Council as applicant has powers to make the application in accordance with section 20 of the 1992 Act and Ashby Canal Association has agreed to the transfer of part of the Ashby de la Zouch Canal Extension to it from Leicestershire County Council.

The Secretary of State has determined in accordance with section 13(1)(b) of the 1992 Act to make an Order giving effect to the proposals comprised in the application [with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals].

In accordance with section 3(2) of the 1992 Act, the Secretary of State is of the opinion that the primary object of this Order cannot be achieved by means of an Order under the Harbours Act 1964(c).

In accordance with section 14 of the 1992 Act notice of the Secretary of State’s determination was published in the London Gazette on [XXX] 202[] and notice of determination was given under that section to the applicant.

The Secretary of State, in exercise of the powers conferred by sections 3(1)(a) and 5 of, and paragraphs 3, 4, 5, 8, and 15 of Schedule 1 to, the 1992 Act, makes the following Order.

(a) S.I. 2006/1466, amended by SI 2010/439, SI 2011/556, SI 2011/2085, SI 2012/147, SI 2012/1658, SI 2012/1659, SI 2012/2590, SI 2013/755 (tp) (sav), SI 2014/469 (tp) (sav), SI 2015/377 (as from 1 Apr 2015), SI 2015/627 (E), SI 2015/1682, SI 2017/979, SI 2017/1070, SI 2019/311 (and by SI 2010/1551 (spent in so far as amended by SI 2006/1466)); modified by SI 2012/1659..

(b) 1992 c. 42. Section 3 was amended by paragraph 53 of Schedule 2 to the Planning Act 2008 (c. 29). Section 5 was amended by S.I. 2012/1659.

(c) 1964 c. 40.

Citation and commencement

1. This Order may be cited as the Ashby de la Zouch Canal Extension (Transfer) Order 202 [] and comes into force on [X] 202[].

Interpretation

2.—(1) In this Order—

“the 2005 Order” means The Leicestershire County Council (Ashby de la Zouch Canal Extension) Order 2005(a);

“ACA” means Ashby Canal Association, a company incorporated under the Companies Act 1985 (registration number 03396198) as a Private Limited Company by guarantee without share capital use of 'Limited' exemption and whose registered office is at 48 The Ridgeway, Burbage, Hinckley, Leicestershire, LE10 2NR;

“the assets” means works, building, machinery, stores and other real and personal property, assets and effects, rights, powers and privileges vested in or enjoyed by the undertaker;

“the Canal” has the same meaning as in article 2(1) of the 2005 Order and is shown outlined with a thick red line on the plan in the Schedule to this Order;

“the Canal land to be transferred” means that part of the Canal land which is shown hatched in red on the plan in the Schedule to this Order;

“the liabilities” means all liabilities and obligations together with rights, powers, and privileges to which the undertaker is subject in relation to the Canal land to be transferred

“the transfer date” means [XXX] 2021; and

“the undertaker” means Leicestershire County Council.

Transfer of functions, property, etc.

3.—(1) On the transfer date all powers and duties conferred or imposed on the undertaker by any provision of the 2005 Order in force immediately before the transfer date and which relate to the Canal land to be transferred shall be transferred from the undertaker to ACA.

(2) On the transfer date the Canal land to be transferred, together with the assets and the liabilities to which the undertaker is then subject in relation to the Canal land to be transferred, shall be transferred from the undertaker to, and vest in, ACA and ACA is entitled to the benefit of the assets which relate to the Canal land to be transferred to the exclusion of the undertaker.

(3) On and after the transfer date, any statutory provision, so far as it relates to the Canal land to be transferred, shall have effect (except where the context otherwise requires and subject to any necessary modifications) as if any reference to the undertaker, however worded and whether express or implied, is a reference to ACA.

(4) On and after the transfer date:

- (a) subject to article 4 the Canal land to be transferred continues to be subject to all statutory and other provisions including those under the 2005 Order applicable to it on the transfer date (in so far as those provisions continue in force and are capable of taking effect);
- (b) the undertaker is released from the liabilities which relate to the Canal land to be transferred; and
- (c) ACA must maintain all rights of access existing before the transfer date and which are located on the Canal land to be transferred except during and for the purposes of any construction works or for a temporary closure in which circumstances a temporary alternative access must be provided.

(a) S.I. 2005/2786.

Byelaws, etc

4. On and after the transfer to ACA any byelaw made, issued or granted by the undertaker in relation wholly or partly to the Canal land to be transferred and in force on the transfer date, shall cease to apply to the Canal land to be transferred.

Contracts to be binding

5. All deeds, contracts and agreements entered into or made by the undertaker in relation to the Canal land to be transferred and in force immediately before the transfer shall, after the transfer to ACA, apply to ACA as they did to the undertaker.

Proceedings not to abate

6. On and after the transfer to ACA, any legal and other proceedings begun before the transfer and relating to any property, rights or liabilities transferred to ACA by this Order may be carried on by or in relation to ACA.

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Date

Department for Environment Food & Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers part of the Ashby de la Zouch Canal Extension from Leicestershire County Council (“the undertaker”) to Ashby Canal Association (“ACA”). Provision is made for contracts made or entered into by the undertaker to remain in force as if they had been made or entered into by ACA and for legal and other proceedings to be carried on by or in relation to ACA. The plan in the Schedule to this Order shows the extent of the canal in thick red outline and associated land in red hatching that are to be transferred from the undertaker to ACA. A full regulatory impact assessment has not been provided for this instrument as there is no impact on business or charities or the voluntary sector.