STATUTORY INSTRUMENTS

1975 No. 853

WATER, ENGLAND AND WALES

The Southern Water Authority (Ardingly Reservoir) Order 1975

Made - - - - 16*th May* 1975

Coming into Operation 19*th June* 1975

The Secretary of State for the Environment, in exercise of the powers conferred by section 67 of the Water Resources Act 1963(a), section 36 of the Compulsory Purchase Act 1965(b), section 1 of the Water Resources Act 1971(c) and now vested in him(d), and of all other powers enabling him in that behalf, hereby orders as follows:—

Citation.

1. This Order may be cited as the Southern Water Authority (Ardingly Reservoir) Order 1975.

Interpretation.

2.—(1) In this order, unless the context otherwise requires, expressions to which meanings are assigned by the Water Resources Act 1963 have the same respective meanings; and

"the Authority" means the Southern Water Authority;

"the County Council" means the County Council of the County of West Sussex;

"the deposited plans" and "the deposited sections" mean respectively the plans and sections prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked "plans and sections referred to in the Southern Water Authority (Ardingly Reservoir) Order 1975", one set of which has been deposited and is available for inspection at the offices of the Authority and the other at the offices of the Secretary of State for the Environment;

"the works" means Works Nos. 1-6 and any works, apparatus or conveniences constructed, provided or installed by the Authority as part of, or in connection with, or for the purposes of, those works or any of them.

(2) The Interpretation Act 1889(e) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(3) Unless the context otherwise requires, any reference in this order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment, including this order.

(a) 1963 c. 38.
(b) 1965 c. 56.
(c) 1971 c. 34.
(d) S.I. 1970/1681 (1970 III, p. 5551).
(e) 1889 c. 63.

[DOE 20240]

(4) References in this order to reference points shall be construed as references to National Grid reference points.

Application and modification of Enactments.

3. In its application in relation to this order, Part I of the Compulsory Purchase Act 1965 shall have effect subject to the following exceptions and modifications—

(*a*) at the end of section 4 there shall be added the following proviso—

"Provided that such powers shall in relation to any of the land be deemed to have been exercised if before the expiration of the said 3 years notice to treat has been served in respect of that land.";

(*b*) subsection (2) of section 11 (Powers of entry) shall have effect as if at the end of the first paragraph thereof there were inserted the words "(other than paragraph 3(3) thereof);"

(*c*) in subsection (3) of section 11 for the words "not less than 3 nor more than 14 days notice" there shall be substituted the words "not less than 7 days notice in the case of the first entry and not less than 24 hours notice in the case of the subsequent entry"; and

(*d*) section 27 (acquiring authority to make good deficiencies in rates) shall be omitted.

Power to construct works.

4.—(1) Subject to the provisions of this order, the Authority on or under the lands delineated on the deposited plans, upon the acquisition of the said lands or sufficient rights or interests therein, may make and maintain in the lines or situations and according to the levels shown upon the deposited plans and the deposited sections and within the limits of deviation thereshown the following works in the District of Mid Sussex in the County of West Sussex—

Work No. 1—A reservoir (to be called "the Ardingly Reservoir") in the Parishes of Ardingly and Balcombe to be formed by means of a dam across the Shell Brook in the Parish of Ardingly commencing at reference point TQ.33342876 and terminating at reference point TQ. 33582893;

Work No. 2—A weir, intake and pumping station at reference point TQ.333283 on the left bank of the River Ouse in the said Parish of Ardingly in parts of enclosures 2225, 2429 and 3833 on the 1/2500 Ordnance Survey map No. TQ.3328;

Work No. 3—An aqueduct or line of pipes in the said Parish of Ardingly commencing at the intake and pumping station (Work No. 2) and terminating in the reservoir (Work No. 1) near the right flank of the dam at reference point TQ.33332889;

Work No. 4—An access road in the said Parish of Ardingly consisting of a widening and improvement of the existing private road from College Lane towards College Farm commencing by a junction with the Class III road between Haywards Heath and Ardingly at reference point TQ.33982806 and terminating at the entry to the existing access road to the Shell Brook Waterworks at reference point TQ.33752847;

Work No. 5—An access road in the said Parish of Ardingly commencing at the intake (Work No. 2) and terminating at reference point TQ.33322879;

Work No. 6—A new road partly constructed on embankment in the said Parish of Ardingly being a diversion of so much of the unclassified road between Ardingly and West Hill as lies between reference points TQ.32983005 and TQ.33402978.

(2) The Authority may, within the limits of deviation for the works described in paragraph (1) of this article, extend, enlarge, alter, replace or relay the same.

(3) The Authority in constructing the works may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans and may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding 2 metres upwards.

Subsidiary powers.

5.—(1) Subject to the provisions of this order and within the limits of deviation shown on the deposited plans, the Authority in connection with and for the purposes of the works described in or authorised by section 4 (Power to Construct Works) of this order, may—

(*a*) make junctions and communications between any of those works and any watercourses and any existing roads, ways, byways, bridges, footpaths and bridleways;

(*b*) make, provide and maintain all necessary and convenient walls, banks, embankments, draw-offs, spillways, aerators, siphons, tunnels, piling, fences, culverts, drains, intakes, lagoons, channels, weirs, fish passes and traps, gauges, sluices, mattresses, pitching, roads, parking areas, pipe and other bridges, gates, building and sheds, footpaths and bridleways and all such mains, pipes, meter valve and other chambers, meters, cables, wires, pumps, machinery, works and appliances as may be required;

(*c*) dispose of spoil or other material;

(*d*) execute any works for the protection of any adjoining lands, embankments or buildings;

(*e*) fell, lop or cut and remove any tree, bush, shrub or other vegetation;

(*f*) alter any mains, pipes, wires and other works and apparatus for conveying or transmitting water, gas, electricity, petroleum or other commodities;

(*g*) remove, alter, divert or stop up any watercourse or local authority or private sewer, the Authority providing a proper substitute before interrupting the flow of sewage in any sewer or water in any watercourse.

(2) In the exercise of the powers conferred by this article, the Authority shall cause as little detriment and inconvenience to any person as circumstances permit.

Stopping up of road, footpaths and bridleway.

6.—(1) The Authority may stop up the road, footpaths and bridleway in the said Parishes of Ardingly and Balcombe described in column (1) of Schedule 1 to this order between the points specified in column (2) of that Schedule and thereupon all rights of way over and along the said road, footpaths and bridleway shall be extinguished provided that the said road shall not be stopped up until a suitable temporary alternative highway has

been constructed which shall be maintained in a reaonable condition by the Authority until the new road, work number 6, is open to the use of the public in accordance with article 7 hereof.

(2) On giving notice to the County Council of their intention so to do the Authority may also stop up so much of any other roads, footpaths and bridleways within the limits of deviation of the works as may be situate on any lands acquired by the Authority which are required for the purpose of any of those works or for obtaining materials for the construction thereof, and thereupon all public rights of way over any such portion of roads, footpaths and bridleways shall be extinguished, but the Authority shall not stop up any part of any road, bridleway or footpath until if reasonably required so to do by the County Council they shall have provided and dedicated to public use a substituted road, bridleway or footpath as the case may be.

(3) No portion of any road, footpath or bridleway shall be stopped up under the powers of this article until the Authority are in possession of all lands abutting on both sides of such road, bridleway or footpath along the complete length to be stopped up except so far as the owners, lessees and occupiers of those lands may otherwise agree.

New road (Work No. 6) to become a highway.

7.—(1) The new road (Work No. 6) shall be constructed in accordance with such specifications and requirements as may be reasonably prescribed by the County Council and to their reasonable satisfaction. Confirmation that the construction of the new road has been completed to the County Council's satisfaction shall be evidenced by the issue of a certificate to that effect given under the hand of the County Surveyor for the time being of the County Council.

(2) When the certificate of completion has been issued in accordance with paragraph (1) of this article, the new road (but not the subsoil or the embankment on which it is constructed) shall be and become a highway maintainable at the public expense forever open to the use of the public.

Provision of alternative footpaths.

8.—(1) The Authority shall provide in the said Parishes of Ardingly and Balcombe footpaths to the reasonable satisfaction of the County Council between the points marked on the deposited plans respectively C1 and B1, C1 and C3, D1 and C3, and C3 and D3 and shall dedicate the same for public use not later than such date as shall be certified by the Director of Technical Services of the Authority as being the date upon which the first filling of the reservoir (Work No. 1) is completed.

(2) Other than the footpaths between the points marked on the deposited plans respectively C1 and C2, C2 and C3, C2 and D2, D1 and C2, the Authority shall not stop up any part of a bridleway or footpath under the powers of paragraph (1) of article 6 until they shall have provided between the points marked on the deposited plan respectively X and Y, B1 and A3, and F1 and F2, and dedicated to the public use a substituted bridleway or footpath as the case may be to the reasonable satisfaction of the County Council.

(3) A bridleway or footpath provided in pursuance of paragraphs (1) and (2) of this article or in pursuance of paragraph (2) of article 6 in substitution for a bridleway or footpath stopped up under the powers of article 6 shall be repairable by the County Council or other authority by

whom the bridleway or footpath stopped up was maintainable before its stopping up and be subject to the same public rights of way as were exercisable over the bridleway or footpath before its stopping up.

(4) The footpath provided in pursuance of paragraph (1) of this article, between the points marked C1 and B1 on the deposited plan shall be repairable by the County Council.

Temporary stoppage of watercourses, highways, etc.

9.—(1) The Authority, during and for the purposes of the execution of any of the works or obtaining materials for the construction thereof may temporarily stop up, alter, divert or otherwise interfere with any watercourse, private sewer or highway or any private right of way and in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to and from any land, house or building abutting on the highway or right of way from passing along and using the same.

(2) The Authority shall provide reasonable access for foot passengers with or without animals bona fide going to and from any such land, house or building.

(3)(*a*) The powers of paragraph (1) of this article shall not be exercised in relation to a highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld, or any conditions so imposed are unreasonable, shall be determined by the Secretary of State for the Environment.

(*b*) The powers of paragraph (1) of this article shall not be exercised in relation to any watercourse or private sewer without providing a proper substitute before interrupting the passage of water or sewage in and through such watercourse or private sewer and the Authority shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse or private sewer, the amount of such compensation being, in case of dispute, determined by the Lands Tribunal.

(*c*) The exercise of the powers conferred by this article in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that highway for any of those purposes.

In this article "telegraphic line" has the same meaning as in the Telegraph Act 1878(a).

Power to acquire lands.

10. Subject to the provisions of this order the Authority may purchase compulsorily such of the lands within the limits of deviation and of lands to be acquired delineated on the deposited plans as may be required for the purposes of the construction, maintenance and operation of the works, provision of substituted footpaths or other purposes connected therewith, including (without prejudice to the generality of the foregoing) for the purpose of obtaining access thereto, obtaining materials for the construction thereof, or otherwise for the purposes of this order or other purposes connected therewith.

(a) 1878 c. 76.

Transfer of existing works of Mid-Sussex Water Company.

11. The existing weir and intake belonging to the Mid-Sussex Water Company and situate on the River Ouse in the said Parish of Ardingly at reference point TQ.333883 such works being Work No. 1 and Work No. 2 in the Mid-Sussex Water Order 1962(a) shall as from the coming into operation of this order be transferred to and vest in the Authority.

Discharge from Ardingly Reservoir (Work No. 1) into the Shell Brook.

12.—(1) During the first filling of the Ardingly Reservoir (Work No. 1) the Authority may discharge water from the reservoir into the Shell Brook in such quantities, at such rates and at such times as they think fit.

(2) After the first filling of the said reservoir the Authority may discharge water from the reservoir into the Shell Brook at reference point TQ. 33512857 at a rate of not more than 50 million gallons per day.

SCHEDULE 1

ROAD, FOOTPATHS AND BRIDLEWAY TO BE STOPPED UP

PART I—ROAD

(1) Road		(2)
Classified Number	Parish	Letters on deposited plans showing extent of stopping up
Unclassified road leading from West Hill to Ardingly	Ardingly	A1 to A4

PART II—FOOTPATHS

(1) Footpath		(2)
No. on map prepared by East Sussex County Council under section 32 of National Parks and Access to the Countryside Act 1949(b)	Parish	Portions of footpaths as marked on deposited plans showing extent of stopping up
34	Ardingly	B1 to A2
5b	,,	F1 to F2
31a	,,	C1 to C2
31b	,,	C2 to C3
32	,,	D1 to C2
33	,,	C2 to D2
10a	Balcombe	D2 to D3

(a) S.I. 1962/979.

(b) 1949 c. 97.

PART III—BRIDLEWAY

(1) Bridleway		(2)
No. on map prepared by East Sussex County Council under section 32 of National Parks and Access to the Countryside Act 1949	Parish	Letters on deposited plans showing extent of stopping up
9	Balcombe	E1 to E2
42	Ardingly	E2 to E3

Signed by authority of
the Secretary of State

16th May 1975

J. R. Niven,
An Under Secretary in the
Department of the Environment.