EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (OPERATION STACK) SPECIAL DEVELOPMENT (AMENDMENT) ORDER 2017

2017 No. 1137

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order further extends the planning permission originally granted in 2015, and extended for a further 18 months in 2016. The planning permission granted by this Order will now cease on 31st December 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Sections 59 and 60 of the Town and Country Planning Act 1990 give the Secretary of State the power to grant planning permission in relation to specific sites under a special development order ("SDO"). Such planning permission may be made unconditionally or subject to such conditions or limitations as may be specified.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The amendments made by this instrument have the same territorial application as the Town and Country Planning (Operation Stack) Special Development Order 2015 ("the 2015 Order"), namely the land identified in that Order at Manston Airport Manston Road, Kent.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Operation Stack is a co-ordinated multi-agency response to situations when the capacity of the Port of Dover and/or Channel Tunnel becomes restricted. It involves

closing sections of the M20 motorway to hold freight traffic in a number of phases and locations within the Port / Tunnel approach and along the M20 motorway.

7.2 Over the summer of 2015, Operation Stack was called for a total of 24 days, with Stage 3 of Operation Stack (where parts of the London-bound M20 are used to store HGVs) being implemented for the first time ever. The unprecedented duration of this disruption and the closure of the London-bound carriageway led to considerable congestion on the roads around Kent with consequential impacts on the local economy, tourism and the haulage industry. There were costs associated with policing and managing the disruption as well as costs associated with providing welfare for HGV drivers.

7.3 To reduce the disruption caused by Operation Stack, the government sought alternative locations for HGVs to park in the longer term as an alternative to Operation Stack and in the short-term as an alternative to Stage 3 of Operation Stack.

7.4 The disused Manston Airfield was identified as the only suitable location in Kent for an alternative to Stage 3 and capable of holding large numbers of vehicles. Since 2nd September 2015, the site has been subject to planning permission granted through an SDO and this expires on 31st December 2017.

7.5 To date the facility of Manston Airfield has not been used for Operation Stack purposes, however the Government considers it is important to have it available until the longer term solution is in place and to act as a contingency. Therefore it is extending the permission granted by the 2015 Order and 2016 Amendment.

7.6 This Order grants permission for a further 2 years, subject to the same conditions and limitations, for use of the site for the purposes of stationing goods vehicles in relation to Operation Stack. Without the SDO, if Operation Stack Stage 3 is invoked on or after 31st December 2017, the operation would have to revert to holding cross-Channel-bound freight vehicles on the London-bound M20 motorway, causing significant disruption to local communities, compromising the welfare of drivers and having a deleterious effect upon the economy.

7.7 Planning permission under this Order is granted for the use of the land identified on the map referred to in the 2015 Order, namely the land comprising the runway, adjoining hard surfaced apron areas and identified access and exit routes on the site; for the use of the Air Traffic Control Tower; and the installation and siting of temporary facilities, services, structures and infrastructure that are ancillary to this use.

7.8 In order to mitigate against potential impacts, this Order grants planning permission for such use subject to a number of conditions and limitations.

7.9 This Order does not permit:

- the use of the land for the stationing of goods vehicles otherwise than for the purposes of Operation Stack;
- the use of the land for the stationing of goods vehicles otherwise than on areas of hard standing;
- the use of the land for the refuelling and unloading of goods vehicles;
- the provision on the land of any structure, works, plant, or machinery otherwise than on areas of hard standing;

- the provision on the land of any structure, works, plant or machinery which exceeds 4 metres in height;
- the use of any building (other than the air traffic control tower or any structure brought onto the land on or after 5th August 2015) on the land.

7.10 This Order is subject to the following conditions:

- any hard standing must be kept in good repair and any defects in the hard standing which may allow surface water or other liquids to penetrate beneath the hard standing must be repaired, so the hard standing is impermeable, as soon as practicable;
- the surface and foul water drainage systems must be kept in good repair and any defects or blockages to the system must be repaired or removed as soon as practicable;
- a plan identifying the foul water sewers and surface water drainage system, including the location of access points to deploy emergency stop valves, must be kept on the land at all times; and
- any artificial lighting must be installed no closer than 10 metres from the boundary of the land and must be arranged so the main beam angle of each installation is directed downward so as to minimise light spill.

7.11 The area of land to which this order applies is shown on a map, a copy of which is available for inspection at the offices of the Department for Communities and Local Government, 2 Marsham Street, London, SW1P 4DF, and another copy at the offices of Thanet District Council, Cecil Street, Margate, Kent, CT9 1XZ.

7.12 The planning permission granted by this Order is temporary and the use shall cease at the end of 31st December 2019. The land should be restored to its condition before the development took place, including removal of all structures, works, plant or machinery brought onto the land in connection with the use as soon as practicable.

Consolidation

7.13 The Department does not intend to consolidate the 2015 Order.

8. Consultation outcome

8.1 The Department for Communities and Local Government consulted Highways England, Kent Police, Kent County Council, Environment Agency, Natural England, Historic England and Thanet District Council on the use of the land before the 2015 Order was made. Some expressed concerns about how the site would operate and traffic be coordinated, but none opposed the scheme. As engagement continued those concerns reduced.

8.2 Further stakeholder consultation has taken place with Highways England, Kent Police, Kent County Council and Thanet District Council. Highways England were supportive of the need to extend the SDO, Kent Police and Kent County Council were content with the proposal and Thanet District Council offered no observations. Given this is an extension of the current SDO and the nature of the planning permission granted has not changed, no wider consultation has taken place.

9. Guidance

9.1 Not relevant.

10. Impact

10.1 When activated at Stage 3 of Operation Stack, use of Manston Airfield for the storage of HGVs will have a positive impact for local businesses and the haulage industry. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 A review provision has not been included as the instrument is not regulatory in nature.

13. Contact

13.1 Jon Bennett at the Department for Transport, Telephone: 07773 074 331, or email: jon.bennett@dft.gsi.gov.uk can answer any queries regarding the instrument.