

CORRECTION NOTICE

M42 JUNCTION ORDER 2019 (S.I. 2020 No. 528)

SCHEDULE 4 TO THE PLANNING ACT 2008 CORRECTION OF ERRORS IN DEVELOPMENT CONSENT DECISIONS

20 October 2020

The Secretary of State received a request dated 19 June 2020 from BDB Pitmans acting on behalf of Highways England (“the Applicant”) for the correction of errors and omissions in the M42 Junction 6 Order 2020 (“the Order”), under paragraph 1(5)(a) of Schedule 4 to the Planning Act 2008.

The Secretary of State has made the following corrections to the Order:

Corrections to the articles

Article 2 (interpretation)

In the definitions of “book of reference”, “classification of road plans”, “crown land plans”, “engineering drawings and sections”, “environmental statement”, “the land plans”, “streets, rights of way and access plans”, “works plans”.

In each place where it occurs, for “(documents to be certified)” substitute “(certification of plans and documents, etc.)”.

Secretary of State’s rationale: to correct the relevant definition in article 2 for each document or plan that is listed in Schedule 13

Article 2(3)(a)

Replace “whether” with “where”.

Secretary of State’s rationale: to correct a typographical error.

Article 39(1) (felling or lopping of trees and removal of hedgerows)

Replace “Subject to paragraph (4)” with “Subject to paragraph (5)”.

Secretary of State’s rationale: to correct incorrect referencing.

After “any tree or shrub” delete “with the exception of ancient woodland”

Secretary of State’s rationale: to correct an unintended consequence and to reflect the intended recommendation made by the Examining Authority.

Article 39(3) (felling or lopping of trees and removal of hedgerows)

Replace “paragraph (4)” with “paragraph (5)”.

Secretary of State's rationale: to correct incorrect referencing.

At the end of article 39(3) insert new paragraph—

“(4) The undertaker may remove fell or lop, or cut back the roots of, any tree or shrub comprised in ancient woodland within or overhanging the limits of deviation of Work No. 3, Work No. 4 or Work No.5, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development”.

Secretary of State's rationale: to correct an unintended consequence and to reflect the intended recommendation of the Examining Authority.

Article 39(4)

Renumber paragraph “4” as paragraph “5”.

Secretary of State's rationale: to correct incorrect referencing.

Replace “paragraphs (1), (2) or (3),” with “paragraphs (1), (2), (3) or (4)”.

Secretary of State's rationale: to correct referencing following the insertion of the new paragraph (4).

Article 39(5)

Renumber paragraph “5” as paragraph “6”.

Secretary of State's rationale: to correct incorrect referencing.

Replace “paragraph (4)” with “paragraph (5)”.

Secretary of State's rationale: to correct incorrect referencing.

Article 39(6)

Renumber paragraph “6” as paragraph “7”.

Secretary of State's rationale: to correct paragraph referencing.

Article 44(1) (certification of plans and documents, etc.)

Replace “(documents to be certified)” with “(certification of plans and documents, etc.)”

Secretary of State's rationale: to correct the title for Schedule 13 in relation to the documents or plans defined in article 2 that are listed in Schedule 13.

Corrections to Schedules

Schedule 2 (requirements)

Part 1 (requirements), requirement 10(1) – traffic management

After “consultation with the relevant planning authority on matters related to its function” delete “and the Royal Mail”.

Secretary of State's rationale: to remove text no longer needed as an agreement is in place that requires the Applicant to consult with Royal Mail in respect of the traffic management plan.

Schedule 11 (felling or lopping of trees and removal of hedgerows)

In Part 1 after the row “G6 Bickenhill” delete the blank row.

Secretary of State's rationale: to delete the erroneous blank row.

Proposed corrections not made

Article 22(3) (protective work to buildings)

Replace “the land” with “any building falling within paragraph (1) and any land within its curtilage”.

Secretary of State's rationale: this is not regarded as a correctable error since it is included in the statement of reasons at (paragraph 79).

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118(4) of the Planning Act 2008, a decision under paragraph 1 of Schedule 4 to correct an error in an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order making the correction is published. M42 Junction 6 (Correction) Order 2020 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/m42-junction-6-improvement/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Correction Order referred to in this notice is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).