

TRANSPORT AND WORKS ACT 1992

**TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006**

THE NETWORK RAIL (CAMBRIDGE RE-SIGNALLING) ORDER

EXPLANATORY MEMORANDUM

This memorandum explains the purpose and effect of each article and schedule in the draft Network Rail (Cambridge Re-Signalling) Order (the “Order”), as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (S.I. 2006 No. 1466).

An application for the Order has been made by Network Rail Infrastructure Limited (“Network Rail”). The Order would confer powers to compulsorily acquire land and rights in land and take temporary possession in connection with the works required for the re-signalling of the Cambridge station interlocking area and the upgrade of the relevant level crossings, including any other works and operations incidental or ancillary to such works (the “Development”).

The proposed works are to be authorised by the planning permissions to be granted by South Cambridgeshire District Council and Breckland Council and by the permitted development rights under Part 8 and Part 18 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (S. I. 2015/596).

This Order is based on the Transport and Works (Model Clauses for Railways and Tramways Order 2006 (S.I. 2006 No. 1954) (the “Model Clauses”). Where there is a material departure from the Model Clauses an explanation is provided.

PART 1

PRELIMINARY

Article 1 (*Citation and Commencement*) provides for the citation and the coming into force of the Order.

Article 2 (*Interpretation*) contains provisions for the interpretation of words and phrases used in the Order. Definitions additional to those set out in the Model Clauses have been included in the article to provide clarity, taking into account the specific provisions of the Order.

PART 2

STREETS

- Article 3* (*Stopping up of streets*) provides for Network Rail permanently to stop up the streets detailed in Schedule 1 to the extent specified. Paragraph (2) provides for all rights of way along any stopped up street to be extinguished, whilst paragraph (3) provides for the payment of compensation to any person suffering loss as a result of the extinguishment of any private rights of way. The proposed clause differs from the Model Clause as it does not include any conditionality regarding the stopping up and does not provide for any substitute streets to be provided. The nature of the land subject to this Article (comprising highway verge) means those conditions are not appropriate to the circumstances. As a result, part of the Model Clause wording has been excluded. This has precedent in a number of previous orders, including The Network Rail (Chart Leacon) Order 2021 and The Network Rail (Teddington Station Access for All) Order 2021.

PART 3

ACQUISITION AND POSSESSION OF LAND

- Article 4* (*Power to acquire land*) confers on Network Rail powers of compulsory acquisition of the specified plots of land identified on the land plans and described in the book of reference, for the purposes of the Development, including any other works and operations incidental or ancillary to the Development.
- Article 5* (*Application of Part 1 of the 1965 Act*) applies, with modifications, the provisions of Part 1 of the Compulsory Purchase Act 1965 (c. 56). This provision is altered from the Model Clause to reflect changes made to the 1965 Act by the Housing and Planning Act 2016 (c. 22) as applied in the Network Rail (Kings Mill No. 1 Level Crossing) (Land Acquisition and Closure) Order 2018 or The Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020.
- Article 6* (*Application of the 1981 Act*) provides for the Order to apply as if it were a compulsory purchase order for the purposes of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66) and provides for that Act to have effect subject to certain modifications. It gives Network Rail the option to acquire land by this method rather than through the notice to treat procedure. This provision is altered from the Model Clause to reflect changes made to the Compulsory Purchase (Vesting Declarations) Act by the Housing and Planning Act 2016 (c.22) as approved in the Network Rail (Buxton Sidings Extension) Order 2017 and the Network Rail (Kings Mill No. 1 Level Crossing) (Land Acquisition and Closure) Order 2018.

Article 7 (*Power to acquire new rights*) authorises the creation of easements or other rights over land and makes ancillary provision where rights are acquired. Paragraph (2) confers, in relation to the land parcels listed in Schedule 2, limited powers to acquire only rights in that land, and paragraph (3) authorises such rights to be acquired on behalf of owners of land affected by the exercise of the powers of the Order in relation to plot shown numbered 306. The purpose acquiring such rights on behalf of third parties is to maintain access to land which has been obstructed by the works.

Paragraph (5) introduces Schedule 5 for the purpose of modifying legislation relating to compensation and the 1965 Act and 1981 Acts so as to apply to the compulsory acquisition of new rights under this Order. These are consequential modifications which, as regards compensation legislation and the 1965 Act, have precedent in, for example, The Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S. I. 2020 No. 114).

Temporary possession or use of land

Article 8 (*Temporary use of land in connection with the development*) enables Network Rail, in connection with the carrying out of the development, to take temporary possession of (i) land listed in columns (1) and (2) of Schedule 3 (land of which temporary possession may be taken) and (ii) any other Order land which is subject to compulsory acquisition under the Order provided the compulsory acquisition process has not begun in relation to it. This is an extension of the model clause but follows the approach adopted in a number of TWA Orders (e.g. The Network Rail (East West Rail) Bicester to Bedford Improvements) Order 2020 (S. I. 2020 No. 114)). It allows greater flexibility in the event that following further detailed design of the works it is decided that only temporary occupation rather than permanent acquisition of land is required. This subparagraph is expressly subject to a new paragraph (10) which identifies parcels of land within the Order limits where no powers of temporary possession are exercisable.

The article also departs from the model clause in allowing (as well as temporary works), mitigation works which have been placed in that land to facilitate construction of the authorised works to be constructed and left on the land, without a requirement for these to be removed. This would apply, for example, where mitigation is provided on behalf of a local flood authority but Network Rail does not need to retain a permanent interest or rights in the land.

Article 9 (*Temporary use of land for oversailing and access*) Paragraph (1)(a) makes provision for cranes and other construction equipment employed by Network Rail in connection with the development to enter the airspace of the land being specified in Schedule 4. Paragraphs (2) and (4) provide that 7 days' notice

must be given before the right to oversail is exercised and that the right ends 7 days after the completion of the activities for which the equipment has been used. Paragraphs (5) and (6) make provision for the payment of compensation to the owners and occupiers of the land for any loss suffered by them as a result of the exercise of the power. The provision has precedent in section 17 of the High Speed Rail (London – West Midlands) Act 2017 and in the Network Rail (Kings Mill No. 1 Level Crossing) (Land Acquisition and Closure) Order 2018.

Paragraph (1)(b) authorises the use of land specified in Schedule 4 for the purpose of temporary access (rather than possession) in connection with the construction of the development. 7 days' notice is required to be given to the landowner unless access is urgently required. Again, this is not a model clause. However, the article does follow model clause 24, temporary use of land for construction of works. The purpose of including a more limited power is to minimise the light to the land in question where outright acquisition, the acquisition of permanent rights or temporary possession of the land is not required. The provision has precedent in the Network Rail (Reading) (Land Acquisition) Order 2009 (S.I. 2009 No. 2728).

Article 10 (*Disregard of certain interests and improvements*) provides that in assessing the compensation payable in respect of compulsory acquisition the Upper Tribunal will disregard any interest in land or any enhancement of an interest in land caused by improvements which they are satisfied were created or undertaken with a view to obtaining compensation or increased compensation.

Article 11 (*Extinction of private rights of way*) provides for the extinguishment of private rights of way over land compulsorily acquired, and the suspension of private rights of way in respect of land temporarily occupied and for payment of compensation. Paragraph (5) also provides for extinguishment of any existing public or private rights over the plot shown numbered 305 on the land plans.

Article 12 (*Time limit for exercise of powers of acquisition*) imposes a time limit of five years from the coming into force of this Order for the exercise of powers of compulsory acquisition or temporary occupation of land.

PART 3

MISCELLANEOUS AND GENERAL

Article 13 (*Statutory undertakers, etc.*) provides that the Order will not affect the rights of statutory undertaker to maintain apparatus.

- Article 14* (*Certification of plans, etc.*) provides for Network Rail to submit to the Secretary of State for certification the book of reference and the land plan after the making of this Order.
- Article 15* (*Service of notices*) makes provisions as to the service of notices or other documents for the purposes of this Order.
- Article 16* (*No double recovery*) prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or any other rule of law.
- Article 17* (*Arbitration*) makes provision for differences arising under any provision of this Order to be determined by arbitration.