# The Northumberland Line Order

# Draft Order (Comparison between Revision 0 and Revision 1)




Northumberland
County Council

STATUTORY INSTRUMENTS

# 202[*] No.

# TRANSPORT AND WORKS, ENGLAND

# TRANSPORT, ENGLAND

## The Northumberland Line Order 202[*]

*Made* - - - - ***

*Coming into force* - - ***

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

~~[~~The Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the 1992 Act.~~]~~

The Secretary of State~~[~~, having considered the objections made and not withdrawn and the report of the person who held the inquiry,~~]~~ has determined to make an Order giving effect to the proposals comprised in the application [with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 in the proposals.]

Notice of the Secretary of State's determination was published in the London Gazette on [*].

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs [1 to 5, 7 to 8, 11, 15 and 16] of Schedule 1 to, the 1992 Act makes the following Order—

# PART 1

## PRELIMINARY

### Citation and commencement

**1.** This Order may be cited as the Northumberland Line Order 202[*] and comes into force on [ ] 202[*].

### Interpretation

**2.**—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**c**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**d**);

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(**a**) S.I. 2006/1466, as amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2013/755, S.I. 2014/469, S.I. 2015/377, S.I. 2015/627, S.I. 2015/1682, S.I. 2017/979 and S.I. 2017/1070.
(**b**) 1992 c. 42. Section 1 was amended by paragraphs 51 and 52 of Schedule 2 to the Planning Act 2008 (c. 29). Section 5 was amended by S.I. 2012/1659.
(**c**) 1961 c. 33.
(**d**) 1965 c. 56.

"the 1980 Act" means the Highways Act 1980(**a**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**b**);

"the 1990 Act" means the Town and Country Planning Act 1990(**c**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**d**);

"the 2003 Act" means the Communications Act 2003(**e**);

"the 2015 Order" means the Town and Country Planning (General Permitted Development) (England) Order 2015(**f**);

"address" includes any number or address used for the purposes of electronic transmission;

"the book of reference" means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

"bridleway" has the same meaning as in the 1980 Act;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in the 1980 Act;

"the Council" means Northumberland County Council of County Hall, Morpeth, Northumberland;

"cycle track" has the same meaning as in section 329(1) (further provisions as to interpretation)(**g**) of the 1980 Act;

"the development" means the works and operations authorised by this Order and any other works and operations incidental or ancillary to the re-introduction of passenger rail services between Ashington in the County of Northumberland and Newcastle upon Tyne permitted by—

(a) the planning permissions; and

(b) the 2015 Order, including Part 18 of Schedule 2 to that Order in relation to works authorised by the enabling Acts;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form,

and in this definition "electronic communications network" has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003(**h**);

"the enabling Acts" means—

(a) the Blyth and Tyne Railway Act 1852(**i**);

(b) the Blyth and Tyne Railway Branches Act 1853(**j**);

(c) the Blyth and Tyne Railway Consolidation and Extensions Act 1854(**k**);

(d) the Blyth and Tyne Railway Amendment Act 1857(**l**);

(e) the Blyth and Tyne Railway Amendment Act 1861(**m**);

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(**a**) 1980 c. 66.
(**b**) 1981 c. 66.
(**c**) 1990 c. 8.
(**d**) 1991 c. 22.
(**e**) 2003 c. 21.
(**f**) S.I. 2015/596.
(**g**) The definition of "cycle track" (in section 329(1)) was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).
(**h**) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.
(**i**) 1852 c. cxxii.
(**j**) 1853 c. clxxii.
(**k**) 1854 c. lxxix.
(**l**) 1857 c. cxiv.
(**m**) 1861 c. xcviii

(f) the Blyth and Tyne Railway Act 1872(**a**); and

(g) the North Eastern Railway Act 1902(**b**);

"footpath" and "footway" have the same meanings as in the 1980 Act;

"highway" and "highway authority" have the same meaning as in the 1980 Act;

"land and works plans" means the plans certified by the Secretary of State as the land and works plans for the purposes of this Order;

"maintain" includes inspect, repair, adjust, alter, remove, reconstruct and replace, and "maintenance" is to be construed accordingly;

"Network Rail" means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN;

"Order limits" means the Order limits as shown on the land and works plans;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**c**);

"the planning permissions" ~~means~~ means—

(a) the planning permissions identified in Schedule 1 (planning permissions) ~~and~~ ;

(a) any ~~directly related~~ planning permission granted under section 73 of the 1990 Act directly related to any of those planning permissions; and

(b) any other planning permission granted under the 1990 Act for the development listed in column (4) of Schedule 1;

"the railway" means the existing railway line between Ashington and Newcastle;

"rights of way plans" means the plans certified by the Secretary of State as the rights of way plans for the purposes of this Order;

"statutory undertaker" means—

(a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and

(b) any public communications provider within the meaning of section 151(1) (interpretation of Chapter 1) of the 2003 Act;

"street" has the meaning given in section 48 (streets, street works and undertakers) of the 1991 Act;

"street authority", in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act; and

"the tribunal" means the Lands Chamber of the Upper Tribunal.

(2) All distances, directions and lengths referred to in this Order are approximate.

(3) References in this Order to points identified by letters with or without numbers, are construed as references to points so lettered on the rights of way plans.

(4) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface.

(5) References in this Order to numbered plots are references to plot numbers on the land and works plans.

(6) References in this Order to points identified by letters and numbers are to be construed as references to points so shown on the rights of way plans.

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(**a**) 1872 c. l.
(**b**) 1902 c. clxvii.
(**c**) 1981 c. 67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to the Order.

# PART 2

## WORKS PROVISIONS

*Principal powers*

**Power to construct and maintain works**

**3.** The Council may carry out and maintain—

(a) such works as are required within the Order limits—

(i) to provide the public rights of way specified in column (4) of Schedule 2 (replacement and closure of level crossings) and column (4) of Part 1 of Schedule ~~4~~ 3 (streets to be stopped up) to the extent that they are not permitted by any of the planning permissions; and

(ii) to provide any temporarily diverted public rights of way required in connection with any exercise of the powers contained in article ~~10~~ 9 (temporary stopping up and diversion of streets),

including works to lay out any footpaths, footways, bridleway and cycle tracks, including surfacing, fencing, stiles, gates, signs, ramps and steps and other means of access;

(b) such works on the land numbered 115, 116, 117, 118, 119, 136, 137, 245, 246, 247, 310 and 311 as shown on the land and works plans as are required to provide parking bays for vehicles, including altering the layout of any adjacent street (provided that any works altering the layout of such streets can only be undertaken with the consent of the street authority); and

(c) such works on the land specified in Schedule ~~8~~ 7 (land of which temporary possession may be taken), Schedule ~~9~~ 8 (land on which a temporary right of access may be exercised) and Schedule ~~10~~ 9 (temporary worksites) as are required to—

(i) erect and construct temporary worksites, including lay down and storage areas, offices and other buildings, yards, slab, cranes, plant and machinery, apparatus, fencing, and other works and conveniences; and

(ii) provide temporary haul roads.

*Supplemental powers*

**Power to survey and investigate land**

**4.**—(1) The Council may, in connection with the development—

(a) survey or investigate any land shown within the Order limits;

(b) without limitation on the scope of sub-paragraph (a), make excavations or trial holes and boreholes in such positions on the land as the Council thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and

(e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice before the first day on which the Council intends to enter the land in exercise of the power conferred by paragraph (1) has been served on every owner and occupier of the land.

(3) Notice given in accordance with paragraph (2) must—

(a) include a statement of the recipient's rights under paragraph (6); and

(b) if the Council proposes to do any of the following, include details of what is proposed—

(i) searching, boring or excavating;

(ii) leaving apparatus on the land;

(iii) taking samples;

(iv) an aerial survey;

(v) carrying out any other activities that may be required to facilitate compliance with the Conservation of Habitats and Species Regulations 2017(**a**).

(4) Any person entering land under this article on behalf of the Council—

(a) must, if so required, before or after entering the land, produce written evidence of authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.

(5) No trial holes are to be made under this article—

(a) in a carriageway or footway without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(6) The Council must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) Section 13 (refusal to give possession to the acquiring authority)(**b**) of the 1965 Act applies to entry onto land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article ~~16(1~~15(1) (application of Part 1 of the 1965 Act).

**Discharge of water**

**5.**—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the Council under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers)(**c**) of the Water Industry Act 1991.

(3) The Council must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose.

(4) The Council must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The Council must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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(**a**) S.I. 2017/1012.

(**b**) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**c**) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(6) The Council must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016(**a**).

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, or a local authority; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(**b**) have the same meaning as in that Act.

**Felling or lopping of trees**

**6.**—(1) The Council may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if the Council 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 development or any apparatus used in connection with the development; or

(b) from constituting a danger to persons using the development.

(2) In carrying out any activity authorised by paragraph (1), the Council must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

# PART 3

## CROSSINGS AND HIGHWAYS

**Closure of level crossings**

**7.**—(1) Subject to paragraph (3), each of the level crossings specified in columns (1) and (2) of Schedule 2 (replacement and closure of level crossings) are stopped up and discontinued.

(2) Subject to paragraph (3) and Part 1 of Schedule ~~11~~ 10 (protective provisions), upon the stopping up and discontinuance of each of the level crossings referred to in paragraph (1)—

(a) the highway specified in relation to that level crossing in column (3) of Schedule 2 is stopped up and extinguished to the extent specified in column (3); and

(b) any rights of way over those crossings are extinguished.

(3) No level crossing or highway specified in columns (2) or (3) of Schedule 2 is to be extinguished, stopped up or discontinued under this article until the new highway specified in relation to it in column (4) of that Schedule has been completed to the reasonable satisfaction of the highway authority and is open for use.

(4) Any person who suffers loss by the extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to paragraph 2 of Schedule ~~11~~ 10 (provisions relating to statutory undertakers etc.) to this Order.

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(**a**) S.I. 2016/1154.
(**b**) 1991 c. 57.

~~**Accommodation crossings**~~

~~**8.** (6) Regardless of anything in section 68 of the Railways Clauses Consolidation Act 1845 (accommodation works by the Company) as incorporated in the enabling Acts or any other enactment or instrument, all public and private rights of way (if any) across the railway by means of the accommodation facilities specified in columns (2) and (3) of Schedule 3 (accommodation crossings), are extinguished.~~

~~(1) Any person who suffers loss by the extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

**Stopping up of streets**

**8.~~9.~~**—(1) Subject to the provisions of this article, the Council may stop up each of the streets specified in column (2) of Parts 1 and 2 of Schedule ~~4~~ 3 (streets to be stopped up) to the extent specified in column (3) of that Part of that Schedule.

(2) No street specified in column (2) of Part 1 of Schedule ~~4~~ 3 is to be wholly or partly stopped up under this article unless—

(a) the new street to be created and substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the highway authority and is open for use; or

(b) a temporary alternative route for the passage of users who could have used the street to be stopped up is first provided between the commencement and termination points for the stopping up of the street and subsequently maintained by the Council, to the reasonable satisfaction of the highway authority, until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule ~~4~~ 3 to this Order (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the highway to be stopped up.

(4) The condition is that—

(a) the Council is in possession of the land;

(b) there is no right of access to the land from the street concerned;

(c) there is reasonably convenient access to the land otherwise than from the street concerned; or

(d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

(a) all rights of way over or along the street so stopped up are extinguished; and

(b) the Council may appropriate and use for the purpose of the development so much of the site of the street as is bounded on both sides by land owned by the Council or Network Rail.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) This article is subject to paragraph 2 of Schedule ~~11~~ 10 (provisions relating to statutory undertakers etc.) to this Order.

**Temporary stopping up and diversion of streets**

**9.~~10.~~**—(1) The Council, during and for the purposes of the construction of the development, may temporarily stop up or divert any street and may for any reasonable time—

(a) divert the traffic from the street; and

(b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the Council may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) The Council must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up or diversion of a street under this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), the Council may temporarily stop up or divert the streets specified in columns (1) and (2) of Schedule ~~5~~ 4 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule.

(5) The Council must not exercise the powers conferred by this article—

(a) in relation to any street specified as mentioned in paragraph (4) without first consulting the street authority; and

(b) in relation to any other street without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

**Creation ~~and maintenance~~ of new highways**

**10.~~11.~~** —(1) ~~Subject to paragraph (3), the highways~~ On completion of each highway specified in column (4) of Schedule 2 (replacement and closure of level crossings) and column (4) of Part 1 of Schedule ~~4~~ 3 (streets to be stopped up) ~~must be completed~~ to the reasonable satisfaction of the highway authority ~~and must be maintained by and at the expense of the Council for a period of 12 months from their completion, and after the expiry of that period by and at the expense of the highway authority.~~, that highway is to have the designation specified in column (4) of Schedule 2 and column (4) of Part 1 of Schedule 3, as the case may be.

~~(1) Subject to paragraph (3), on completion of each highway in accordance with paragraph (1), that highway is to have the designation specified in column (4) of Schedule 2 and column (4) of Part 1 of Schedule 4, as the case may be.~~

~~(2) Paragraphs (1) and (2) do not apply to the highways which are described in column (4) of Schedule 2 and column (4) of Part 1 of Schedule 4 as being constructed in accordance with a planning permission to be granted by Northumberland County Council.~~

(2) ~~(3)~~Section 28 (compensation for loss caused by public path creation order) of the 1980 Act is to apply to each new footpath or bridleway specified in column (4) of Part 1 of Schedule ~~4~~ 3 as if the footpath or bridleway had been created by a public path creation order.

(3) ~~(4)~~The application of section 28 of the 1980 Act, as applied by paragraph (~~4~~2), has effect with the following modifications—

(a) in subsection (1), substitute "Northumberland County Council" for "the authority by whom the Order was made";

(b) for subsection (2), substitute—

(2) A claim for compensation under this section shall be made to Northumberland County Council in writing within six months from the coming into force of the Northumberland Line Order 202[*] and is to be served on Northumberland County Council by delivering it at, or by sending it by pre-paid post to the registered office of Northumberland County Council; and

(c) Subsection (3) is omitted.

(4) ~~(5)~~Subsection (3) of section 307 of the 1980 Act (disputes as to compensation which are to be determined by Upper Tribunal and related provisions), in its application to section 28 by virtue of subsection (1), has effect as if in subsection (2) for "the authority from whom the compensation in question is claimed", the words "Northumberland County Council" are substituted.

(5) ~~(6)~~In any action against the Council in respect of loss or damage resulting from any failure by it to maintain a highway created under this Order, it is a defence (without affecting any other

defence or the application of the law relating to contributory negligence) to prove that the Council had taken such care as in all the circumstances was reasonably required to secure that the part of the new highway to which the action relates was not dangerous to traffic.

(6) ~~(7)~~For the purposes of a defence under paragraph (~~7~~5), the court must in particular have regard to the following matters—

(a) the character of the new highway and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a highway of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the new highway;

(d) whether the Council knew, or could reasonably have been expected to know, that the condition of the part of the new highway to which the action relates was likely to cause danger to users of the new highway; and

(e) where the Council could not reasonably have been expected to repair that part of the new highway before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Council had arranged for a competent person to carry out or supervise the maintenance of the part of the new highway to which the action relates unless it is also proved that the Council had given the competent person proper instructions with regard to the maintenance of the new highway and that the competent person had carried out those instructions.

(7) ~~(8)~~This article does not apply in relation to the structure of any bridge or underpass carrying a highway created under this Order over or under the railway.

**Means of access**

**11.~~12.~~** The Council may in connection with the development—

(a) form and lay out means of access, or alter or improve existing means of access, at the locations marked with an 'A' on the land and works plans; and

(b) form and lay out such other means of access or alter or improve existing means of access at such locations within the Order limits as the Council reasonably requires for the purposes of the development, as may be approved by the highway authority.

**Street works**

**12.~~13.~~**—(1) The Council may, in connection with the development, enter on so much of any street and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) tunnel or bore under the street;

(c) place apparatus in the street;

(d) maintain apparatus in the street or change its position; and

(e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) or (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (street, street works and undertakers) and 51(1) of the 1991 Act (prohibition of unauthorised street works).

(3) The Council must not construct works under paragraph (1) without the consent of the street authority, which may attach reasonable conditions to any consent.

**Agreements with highway authorities**

13.~~14.~~—(1) A highway authority may enter into an agreement or agreements with the Council with respect to—

(a) the carrying out of any of the works under article 3 (power to construct and maintain works) which relate to highway land;

(b) the construction of any new public right of way or street under the powers conferred by this Order and the maintenance of such a new right of way or street; or

(c) any stopping up, alteration or diversion of any right of way or street under the powers conferred by this Order and the maintenance of any such altered or diverted right of way or street.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

(a) make provision for the highway authority to carry out any function under this Order which relates to the highway in question;

(b) specify the mechanism by which detailed design for works must be approved by the highway authority before works are implemented;

(c) specify the mechanism by which information regarding any new highway can be provided to the highway authority to enable modification of the definitive map and statement as defined in section 53(1) (duty to keep definitive map and statement under continuous review) of the Wildlife and Countryside Act 1981(**a**); and

(d) contain such terms as to payment and otherwise as the parties consider appropriate.

# PART 4

## ACQUISITION AND POSSESSION OF LAND

*Powers of acquisition*

**Power to acquire land**

14.~~15.~~—(1) The Council may acquire compulsorily so much of the land shown on the land and works plans and described in the book of reference as may be required for the purposes of the development and may use any land so acquired for those purposes, or for any other purposes that are ancillary to Network Rail's railway undertaking.

(2) This article is subject to article ~~18~~ 17 (power to acquire new rights), article ~~20~~ 19 (temporary use of land in connection with the development) and article ~~26~~ 25 (time limit for exercise of powers of acquisition and temporary use of land) and does not apply to any land that is subject to article ~~21~~ 20 (temporary use of land for access).

**Application of Part 1 of the 1965 Act**

15.~~16.~~—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

(a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(**b**) applies; and

(b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as applied by paragraph (1), has effect subject to the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

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(**a**) 1981 c. 69.
(**b**) 1981 c. 67.

(4) In section 4A(1) (extension of time limit during challenge)(**a**) for "section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4", substitute "section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article ~~26~~ 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 202[*]".

(5) In section 11(1B) (powers of entry)(**b**) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for "3 months" substitute "1 month".

(6) In section 11A (powers of entry: further notices of entry)(**c**)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for "section 4 of this Act" substitute "article ~~26~~ 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 202[*]".

(8) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)(**d**)—

(a) for paragraphs 1(2) and 14(2) substitute—

(2) But see article ~~19~~ 18 (power to acquire subsoil or airspace only) of the Northumberland Line Order 202[*], which excludes the acquisition of subsoil or airspace only from this Schedule.; and

(b) after paragraph 29 insert—

# PART 4

## INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article ~~20~~ 19 (temporary use of land in connection with the development) of the Northumberland Line Order 202[*] (temporary use of land in connection with the development)..

**Application of the 1981 Act**

**16.~~17.~~** —(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from ", and this subsection" to the end.

(4) Omit section 5A (time limit for general vesting declaration)(**e**).

(5) In section 5B (extension of time limit during challenge)(**f**) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A" substitute "section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article ~~26~~ 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 202[*]".

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(**a**) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).
(**b**) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.
(**c**) Section 11A was inserted by 186(3) of the Housing and Planning Act 2016.
(**d**) Schedule 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016.
(**e**) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.
(**f**) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.

(6) In section 6 (notices after execution of declaration)(**a**), in subsection (1)(b), for "section 5 of, or paragraph 6 of Schedule 1 to the Acquisition of Land Act 1981" substitute "section 14A of the Transport and Works Act 1992".

(7) In section 7 (constructive notice to treat)(**b**), in subsection (1)(a), omit the words "(as modified by section 4 of the Acquisition of Land Act 1981)".

(8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(**c**), for paragraph 1(2) substitute—

> (2) But see article ~~19~~ 18 (power to acquire subsoil or airspace only) of the Northumberland Line Order 202[*], which excludes the acquisition of subsoil or airspace only from this Schedule..

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article ~~15~~ 14 (power to acquire land) by article ~~16~~ 15 (application of Part 1 of the 1965 Act).

**Power to acquire new rights**

**17.~~18.~~**—(1) Subject to paragraph (2), the Council may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article ~~15~~ 14 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) In the case of the land specified in columns (1) and (2) of Schedule ~~6~~ 5 (land in which only new rights etc., may be acquired) the Council's powers of compulsory acquisition under article ~~15~~ 14 (power to acquire land) are limited to the acquisition of such new rights as may be required for the purposes specified in relation to that land in column (3) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act (as substituted by paragraph 5(8) of Schedule ~~7~~ 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the Council acquires a right over land under paragraphs (1) or (2) the Council is not required to acquire a greater interest in that land.

(4) Schedule ~~7~~ 6 modifies the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

**Power to acquire subsoil or airspace only**

**18.~~19.~~**—(1) The Council may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in article ~~15(1~~14(1) (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the Council acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), the Council is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act (as modified by article ~~16~~ 15 (application of Part 1 of the 1965 Act)) or Schedule A1 to the 1981 Act (as modified by article ~~17~~ 16 (application of the 1981 Act )) from applying where the Council acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

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(**a**) Section 6 was amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c.22).
(**b**) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.
(**c**) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

**Temporary use of land in connection with the development**

**19.~~20.~~**—(1) The Council may, in connection with the development, enter upon and take temporary possession of—

(a) the land specified in columns (1) and (2) of Schedule ~~8~~ 7 (land of which temporary possession may be taken) for the purposes specified in relation to the land in column (3) of that Schedule; and

(b) any other land within the Order limits (excluding the land specified in Schedule ~~9~~ 8 (land on which temporary rights of access may be exercised)) in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article the Council must serve notice of the intended entry on the owners and occupiers of the land.

(3) The Council may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the works for the purposes of which temporary possession of that land was taken.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Council must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(5) The Council must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Without affecting article ~~38~~ 37 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection)(**a**) of the 1965 Act or under any other enactment in respect of loss or damage for which compensation is payable under paragraph (5).

(8) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1)(a) except that the Council is not precluded from acquiring new rights over any part of that land identified in Schedule ~~6~~ 5 (land in which only new rights etc., may be acquired) under article ~~18~~ 17 (power to acquire new rights).

(9) Where the Council takes possession of land under this article, it is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority)(**b**) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article ~~16(1~~15(1) (application of Part 1 of the 1965 Act).

(11) The provisions of the Neighbourhood Planning Act 2017(**c**), insofar as they relate to temporary possession or use of land under this article, do not apply to anything done in connection with the development or the exercise of any powers under this Order.

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(**a**) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.
(**b**) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
(**c**) 2017 c. 20.

**Temporary use of land for access**

20.~~21.~~—(1) The Council may use any land specified in Schedule ~~9~~ 8 (land on which a temporary right of access may be exercised) for the passage of persons or vehicles (with or without materials, plant and machinery) in connection with the development.

(2) The power under paragraph (1) is exercisable on giving at least seven days' notice (or, where access is urgently required, such notice as is reasonably practicable) to the owners and occupiers of the land.

(3) But paragraph (2) does not require notice to be given in relation to land where notice under that paragraph has already been given in relation to that land.

(4) The Council must pay compensation to the owners and occupiers of the land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.

(5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

(6) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article ~~16(1~~15(1) (application of Part 1 of the 1965 Act).

(7) The provisions of the Neighbourhood Planning Act 2017, insofar as they relate to temporary use of land under this article, do not apply to anything done in connection with the development or the exercise of any powers under this Order.

*Compensation*

**Disregard of certain interests and improvements**

21.~~22.~~—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) "relevant land" means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

**Set-off for enhancement in value of retained land**

22.~~23.~~—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction or operation of any part of the development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article ~~18~~ 17 (power to acquire new rights), the tribunal must set off against the value of the rights so acquired—

(a) any increase in the value of the land over which the new rights are required; and

(b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to such person by reason of the construction or operation of any part of the development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

(4) In assessing the compensation payable to any person in respect of the loss of entitlement to rental payments under article ~~35~~ 34 (modification of agreements relating to land) in relation to the wayleave leases referred to in that article the tribunal must set off against the value of that lost entitlement to rental payments any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction or operation of any part of the development.

*Supplementary*

**Private rights over land**

**23.~~24.~~** (1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

(a) from the date of acquisition of the land by the Council, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the Council under section 11(1) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) Subject to the provisions of this article, all private rights over land owned by the Council and Network Rail which, being within the Order limits, is required for the purposes of the development are extinguished on the appropriation of the land for any of those purposes by the Council or Network Rail.

(3) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right—

(a) from the date of the acquisition of the right by the Council, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the Council under section 11(1) of the 1965 Act; or

(c) on the commencement of any activity authorised by this Order which interferes with or breaches those rights,

whichever is the sooner.

(4) Subject to the provisions of this article, all private rights over land of which the Council takes temporary possession under this Order are suspended and unenforceable for as long as the Council remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 271 or 272(a) (extinguishment of rights of statutory undertakers etc.) of the 1990 Act or paragraph 2 of Part 1 of Schedule ~~11~~ 10 (provisions relating to statutory undertakers etc.) applies.

(7) Paragraphs (1), (2), (3) and (4) have effect subject to—

(a) any notice given by the Council before—

(i) the completion of the acquisition of the land or the acquisition of the rights over or affecting the land;

(ii) the Council's appropriation of it;

(iii) the Council's entry onto it; or

(iv) the Council taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made at any time between the Council or Network Rail and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is mentioned in sub-paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under the person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

**Open space land**

24.~~25.~~—(1) As from the date on which the Council enters onto the open space land under section 11(1) of the 1965 Act (powers of entry) or section 8 of the 1981 Act (vesting, and right to enter and take possession) the open space land will be discharged from all rights, trusts and incidents to which it was previously subject.

(2) In this article "the open space land" means the land numbered 116 and 247 as shown on the land and works plans and forming part of an open space within the meaning of section 19(1) of the 1981 Act which the Secretary of State has certified as not exceeding 209 square metres and that the giving in exchange of other land for the open space land is unnecessary for the purposes of section 19(1) of the 1981 Act.

**Time limit for exercise of powers of acquisition and temporary use of land**

25.~~26.~~—(1) After the end of the period of five years beginning on the day on which this Order comes into force—

(a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article ~~16~~ 15 (application of part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 of the 1981 Act (execution of declaration) as applied by article ~~17~~ 16 (application of the 1981 Act).

(2) The powers conferred by articles ~~20~~ 19 (temporary use of land in connection with the development) and ~~21~~ 20 (temporary use of land for access) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Council remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

# PART 5

## MISCELLANEOUS AND GENERAL

**Planning permission**

26.~~27.~~ Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to the works mentioned in articles 3(b) (power to construct and maintain works) and ~~12~~ 11 (means of access) is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land of the purposes of that Act) of that Act.

**Power to transfer benefit of the Order**

27.~~28.~~—(1) Subject to paragraph (4), the Council may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the Council and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the Council and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the Council, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the Council.

(4) The consent of the Secretary of State is required for a transfer or grant under this article unless such transfer or grant is to Network Rail in accordance with an agreement made under article ~~29~~ 28 (agreements with Network Rail).

**Agreements with Network Rail**

28.~~29.~~—(1) The Council and Network Rail may enter into and carry into effect agreements with respect to the development.

(2) Any agreement made pursuant to the powers conferred by this article may contain such incidental, consequential or supplementary provisions as may be agreed, including (but without limitation on the scope of paragraph (1)), provisions—

(a) with respect to the defraying of, or the making of contributions towards, the cost of the development by the Council or by Network Rail or by the Council and Network Rail jointly;

(b) for the exercise by Network Rail, or by the Council, or by Network Rail and the Council jointly, of all or any of the powers and rights of Network Rail and the Council (as the case may be) in respect of any part of the development; and

(c) without limitation on the scope of sub-paragraph (b), for the exercise by Network Rail, or by Network Rail and the Council jointly, of all or any of the powers under this Order for, or relating to, the compulsory acquisition, or the temporary possession or use, of any land or rights over land.

(3) The exercise by the Council or Network Rail or by the Council and Network Rail jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (1) is subject to all statutory and contractual provisions relating to it as would apply if such powers and rights were exercised by the Council or Network Rail (as the case may be) alone, and accordingly such provisions, with any necessary modifications, apply to the exercise of such powers and rights by the Council or Network Rail or by the Council and Network Rail jointly, as the case may be.

(4) The Council and Network Rail may enter into, and carry into effect, agreements for the transfer to and vesting in Network Rail or the Council, or the Council and Network Rail jointly of—

(a) any part of the development; or

(b) any works, lands or other property required for the purposes of the development or in connection with the development,

together with any rights and obligations (whether or not statutory) of Network Rail or the Council relating to them.

**Defence to proceedings in respect of statutory nuisance**

29.~~30.~~—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**a**) in relation to a nuisance falling within section 79(1)(g) or (ga) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows—

(a) that the nuisance relates to premises used by the Council or Network Rail for or in connection with the construction or maintenance of the development and that the nuisance is attributable to the carrying out of the development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(**b**); or

(b) that the nuisance is a consequence of the construction, operation or maintenance of the development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974, ~~do~~ does not apply where the consent relates to the use of premises by the Council or Network Rail for the purposes of or in connection with the construction or maintenance of the development.

(3) In proceedings for an offence under section 80(4) of the Environmental Protection Act 1990 (offence of contravening abatement notice) in respect of a statutory nuisance falling within section 79(1)(g) or (ga) of that Act where the offence consists of contravening requirements imposed by virtue of section 80(1)(a) or (b)(**c**) of that Act, it is a defence to show that the nuisance—

(a) is a consequence of the construction, operation or maintenance of the development; and

(b) cannot reasonably be avoided.

(4) The provisions of this article do not affect the application to the development of section 122 (statutory authority as a defence to actions in nuisance, etc.) of the Railways Act 1993(**d**) or any rule of common law having similar effect.

**Protective provisions**

30.~~31.~~ Schedule ~~11~~ 10 (protective provisions) has effect.

**Consents, agreement, certifications and approvals**

31.~~32.~~—(1) Where any application is made to a relevant authority under this Order, the consent, agreement, certification or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) If a relevant authority which has received an application fails to notify the Council of its decision before the end of the period of 28 days beginning with the date on which the application was received, the relevant authority is deemed to have given its consent, agreement, certification or approval, as the case may be.

(3) Any application to which this article applies must include a written statement that the provisions of paragraph (2) apply to that application.

(4) If before this Order comes into force the Council or any other person has taken any step in relation to an application to which this article applies, that step may be taken into account to determine whether the consent, agreement, certification or approval concerned should be granted provided that step would have been a valid step for the purpose of the application if it had been taken after this Order came into force.

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(**a**) 1990 c. 43.
(**b**) 1974 c. 40.
(**c**) Section 80(1) was amended by section 86 of the Clean Neighbourhoods and Environment Act 2005.
(**d**) 1993 c. 43.

(5) Where any application is made to a relevant authority and the application includes submissions relating to the discharge of an obligation under Schedule ~~11~~ 10 (protective provisions) at the same time, paragraph (2) does not apply to that application.

(6) In this article—

"application" means an application or request for any consent, agreement, certification or approval required or contemplated by articles 3 (power to construct and maintain works), 4 (power to survey and investigate land), 5 (discharge of water), ~~10~~ 9 (temporary stopping up and diversion of streets), ~~11~~ 10 (creation and maintenance of new highways), ~~12~~ 11 (means of access) and ~~13~~ 12 (street works); and

"relevant authority" means a highway authority, a street authority or an owner of a public sewer or drain as defined in article 5(8)(a) (discharge of water).

**Obstruction of construction of development**

32.~~33.~~ Any person who, without reasonable excuse—

(a) obstructs any person acting under the authority of the Council or Network Rail in constructing or accessing any part of the development; or

(b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of the Council or Network Rail,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Disapplication of provisions in the enabling Acts**

33.~~34.~~ Any provision of the enabling Acts, and of any other enactment of local application relating to the railway, which limits or has the effect of limiting the level of tolls, fares or any other charges that can be levied in connection with the operation and use of the railway, does not apply to the railway following this Order coming into force.

**Modification of agreements relating to land**

34.~~35.~~—(1) In this article—

"the landowner" means the person who for the time being holds the reversionary interest in the land comprised in any of the relevant wayleave leases;

"the relevant wayleave lease" means each of the following indentures conferring rights to construct, maintain and use the railway—

(a) the indenture made on 10th May 1853 between Algernon Duke and Earl of Northumberland and the Blyth and Tyne Railway Company;

(b) the indenture made on 20th May 1853 between the Jacob Lord Hastings Baron Hastings and the Blyth and Tyne Railway Company;

(c) the indenture made on 29th July 1867 between the Duke of Northumberland and the Blyth and Tyne Railway Company; and

(d) the indenture made the 30th July 1867 between George Duke of Northumberland and the Blyth and Tyne Railway Company; and

"the rent" means the rent or other sums calculated by reference to the use of the railway which is payable to the landowner under the relevant wayleave leases.

(2) On the bringing into use of all or any part of the development any obligation under the relevant wayleave leases to pay the rent is to cease to have effect.

(3) Network Rail must pay to the landowner a capitalised sum by way of compensation for any loss arising from the operation of paragraph (2), such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

**Certification of plans, etc.**

35.~~36.~~ The Council must, as soon as practicable after the making of this Order, submit copies of the book of reference, the land and works plans and the rights of way plans to the Secretary of State for certification that they are, respectively, true copies of the book of reference, the land and works plans and the rights of way plans referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

**Service of notices**

36.~~37.~~ —(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post; or

(b) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

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(**a**) 1978 c. 30.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

**No double recovery**

**37.~~38.~~** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

**Arbitration**

**38.~~39.~~** Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State

*Name*
Head of Transport Infrastructure Planning Unit
Department for Transport

Address
Date

# SCHEDULE 1

Article 2

## PLANNING PERMISSIONS

| *(1)*<br>*Local Planning Authority* | *(2)*<br>*Date planning permission granted* | *(3)*<br>*Reference number* | *(4)*<br>*Description of development* |
|---|---|---|---|
| Northumberland County Council | ~~[XX]~~10 September 2021 | 21/00387/CCD | Construction of a new railway station and other associated works at Ashington. |
| | ~~[XX]~~9 June 2021 | 21/00388/CCD | Construction of a footbridge over the railway and other associated works at Chase Meadows. |
| | [XX] | 21/00878/CCD | Construction of a new railway station and other associated works at Bebside. |
| | [XX] | 21/01106/CCD | Construction of a new railway station and other associated works at Bedlington. |
| | [XX] | 21/03060/CCD | Construction of a new car park associated with the proposed new railway station at Bedlington |
| | [XX] | ~~[XX]~~21/0370/CCD | Construction of a new railway station at Newsham, diversion of the A1061 across an overbridge over the railway, and other associated works. |
| | ~~[XX]~~ | ~~[XX]~~ | ~~Implementation of flood compensation works in and around the proposed new railway station at Newsham.~~ |
| | [XX] | ~~[XX]~~21/02253/CCD | Construction of a new railway station and other associated works at Seaton Delaval. |
| | [XX] | ~~[XX]~~21/03780/CCD | Construction of a ~~footbridge over~~ new underpass under the railway and other associated works at Hospital Crossing. |
| North Tyneside Council | ~~[XX]~~14 September 2021 | 21/00299/FUL | Construction of a new railway station and other associated works at Northumberland Park. |
| | [XX] | ~~[XX]~~21/02173/FUL | Construction of a new underpass under the railway and other associated works at Palmersville Dairy. |

# SCHEDULE 2

Article 7

## REPLACEMENT AND CLOSURE OF LEVEL CROSSINGS

| *(1)*<br>*Area* | *(2)*<br>*Level crossing to be discontinued* | *(3)*<br>*Highway to be extinguished (as shown on the rights of way plans)* | *(4)*<br>*Highway to be substituted (as shown on the rights of way plans)* |
|---|---|---|---|
| County of Northumberland | The level crossing known as Hospital. | Footpath 600/100 between points P85 and P86, and between points P87 and P89 (sheet 16). | New footpath across a new underpass between points P91 and P94, P90 and P87~~–~~, and P95 and P93 (sheet 16). |
| | The level crossing known as Newsham. | The A1061 between points P51 and P52 (sheet 11). | The diverted section of the A1061 crossing the railway on an overbridge to the south of the existing alignment ~~to be constructed in accordance with a planning permission granted by Northumberland County Council~~shown as being new vehicular highway on sheet 11. |
| | The level crossing known as Chase Meadows. | Footpath 300/013 between points P72 and P73 (sheet 12). | New footpath across a new footbridge between points P74 and P75 (sheet 12). |
| | The level crossing known as Lysdon Farm. | Footpath 300/049 between points P42 and P44 (sheet 6). | New footpath between points P40 and P44 (sheet 6). |
| Metropolitan Borough of North Tyneside | The level crossing known as Palmersville Dairy. | Footpath Forest Hall 5 between points P4 and P7 (sheet 1). | New footpath across a new underpass between points P4 and P7 and points P2 and P2a (sheet 1). |

# SCHEDULE 3

Article 8

## ACCOMMODATION CROSSINGS

| *(1)*<br>*Area* | *(2)*<br>*Accommodation facility to be discontinued* | *(3)*<br>*Private right of way to be extinguished* |
|---|---|---|
| County of Northumberland | The level crossing known as Bomarsund user worked crossing (sheet 15). | The private right of way crossing the railway between points P82 and P83 (sheet 15). |
| | The level crossing known as Red Row Bridge (sheet 15). | The private right of way crossing the railway between points P80 and P80a (sheet 15). |
| Metropolitan Borough of North Tyneside | The level crossing known as Holywell user worked crossing (sheet 3). | The private right of way crossing the railway between points P23 and P23a (sheet 3). |

## ~~SCHEDULE 4~~ ~~Article 9~~

# STREETS TO BE STOPPED UP

## PART 1

### STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| *(1)*<br>*Area* | *(2)*<br>*Highway/Street to be stopped up* | *(3)*<br>*Extent of stopping up (as shown on the rights of way plans)* | *(4)*<br>*New highway/street to be substituted (as shown on the rights of way plans)* |
|---|---|---|---|
| ~~Backworth 13~~ | ~~Between points P15 and P19 (sheet 2).~~ | ~~Footpath between points P17 and P19 (sheet 2).~~ | |
| | ~~Backworth 2~~ | ~~Between points P25, P26 and P27 (sheet 3).~~ | ~~Footpath between points P25, P26 and P27 (sheet 3).~~ |
| County of Northumberland | A1061 | The irregular shaped sections of vehicular highway to the east and west of Newsham level crossing shown as being stopped up on sheet 11 of the rights of way plans. | The diverted section of the A1061 crossing the railway on an overbridge to the south of the existing alignment ~~to be constructed in accordance with a planning permission to be granted by Northumberland County Council~~shown as being new vehicular highway on sheet 11. |
| | Footpath 300/162 | Between points P53 and P54 (sheet 11). | New ~~footway and footpath linking footpath 300/162 with the diverted A1061~~ public right of way on foot between points P54 and P54a (sheet 11) along a new access track to be constructed at this location in accordance with a planning permission to be granted by Northumberland County Council. |
| | ~~Footpath 300/031~~ | ~~Between points P50a and P50 (sheet 11).~~ | ~~New footway and footpath linking footpath 300/031 with the diverted A1061 to be constructed at this location in accordance with a planning permission to be granted by Northumberland County Council.~~ |

| | | | |
|---|---|---|---|
| | Bridleway 300/016 | Between points P76 and P78 (sheet 12). | Bridleway between points P76 and P77 (sheet 12). |
| Metropolitan Borough of North Tyneside | Backworth 13 | Between points P15 and P19 (sheet 2). | Footpath between points P17 and P19 (sheet 2). |
| | Backworth 2 | Between points P25, P26 and P27 (sheet 3). | Footpath between points P25, P26 and P27 (sheet 3). |

# PART 2

## STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| *(1)*<br>*Area* | *(2)*<br>*Highway/Street to be stopped up* | *(3)*<br>*Extent of stopping up (as shown on the rights of way plans)* |
|---|---|---|
| County of Northumberland | Footpath 300/068 | Between points P47 and P49 (sheet 9). |
| | Section of highway extending east from a junction with Kenilworth Road ~~show~~ shown on sheet 16 of the rights of way plans. | Between points P96 and P97 (sheet 16). |
| | Footpath 300/031 | Between points P50a and P50 (sheet 11). |
| | Park Terrace | The irregular shaped section shown as vehicular highway to be stopped up on sheet 14 of the rights of way plans. |
| Metropolitan Borough of North Tyneside | Recordable Path | Between points ~~P2~~ P2a and P5 (sheet 1). |
| | Recordable Path | Between points P22 and P12a (sheet 2). |

# SCHEDULE ~~5~~4

Article ~~10~~9

## STREETS TO BE TEMPORARILY STOPPED UP

| *(1)*<br>*Area* | *(2)*<br>*Highway/Street to be temporarily stopped up* | *(3)*<br>*Extent of temporary stopping up (as shown on the rights of way plans)* |
|---|---|---|
| County of Northumberland | Footpath 300/139 | Between points P26 and P26a (sheet 3), and between points P27 and P30 (sheets 3 and 4). |
| | Footpath 300/188 | Between points P28 and P29 (sheet 4). |
| | Footpath 300/128 | Between points P31 and P33a, P33a and P33b, and P33b and P34 (sheet 5). |
| | Footpath 300/194 | Between points P32 and P33 (sheet 5). |
| | Footpath 300/050 | Between points P46 and P48 (sheet 9). |
| | Footpath 300/049 | Between points P35 and P44 (sheet 6). |
| | Footpath 300/099 | Between points P35 and P37 (sheet 6). |
| | Footpath 300/048 | Between points P41 ~~(sheet 6)~~ and P45 (~~sheet~~ sheets 6, 7 and 8). |
| | Footpath 300/031 | Between points P36 ~~(sheet 6)~~ and P50 (~~sheet~~ sheets 6, 10 and 11). |
| | Footpath 300/162 | Between points P54 and P55 (sheet 11). |
| | Footpath 300/033 | Between points P55 and P56 (sheet 11). |
| | Footpath 300/034 | Between points P56 and P56a (sheet 11). |
| | Bridleway 300/016 | Between points P77a and P78 (sheet 12). |
| | Bridleway 300/178 | Between points P78 and P78a (sheet 12), and between point P76 and P79 (sheets 12 and 13). |
| | Footpath 300/013 | Between points P71 and P72 (sheet 12). |
| | Footpath 300/022 | Between points P72 and P70 (sheet 12). |
| | Bridleway 600/064 | Between points P81 and P82, P82 and P83, and P83 and P84 (sheet 15). |
| | Footpath 600/100 | Between points P88 and P87 (sheet 16). |

| | | |
|---|---|---|
| Metropolitan Borough of North Tyneside | Recordable Path | Between points P1 and P2 (sheet 1). |
| | Footpath Forest Hall 5 | Between points P3 and P4, and P7 and P8 (sheet 1). |
| | Recordable Path | Between points P13 and P12a (sheet 2). |
| | Recordable Path | Between points P12 and P11 (sheet 2). |
| | Recordable Path | Between points P16 and P15 (sheet 2). |
| | Recordable Path | Between points P15 and P18 (sheet 2). |
| | Footpath Backworth 13 | Between points P14 and P15, and P19 and P21 (sheet 2). |
| | Recordable Path | Between points P19 and P20 (sheet 2). |
| | Recordable Path | Between points P9 and P10 (sheet 2). |
| | Footpath Backworth 2 | Between points P24 and P25 (sheet 3). |

# SCHEDULE ~~6~~5

Article ~~18~~17

## LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

| *(1)*<br>*Area* | *(2)*<br>*Number of land shown on the land and works plans* | *(3)*<br>*Purpose for which rights may be acquired* |
|---|---|---|
| County of Northumberland | 125 | Installation of drainage outfall pipe, and access for ongoing inspection and maintenance |
| | 236 | Access for construction and ongoing inspection and maintenance of footbridge |
| | 241a, 242a and 243a | Installation of drainage apparatus, and access for ongoing inspection and maintenance |
| | 245 | Access and parking for maintenance vehicles |
| | 250 | Construction, inspection and maintenance of pedestrian and cycle bridge over highway |
| | 259 | Access to sidings |
| | 281a | Emergency egress from station |
| | ~~303~~316b | Access for ~~railway~~ inspection and maintenance of underpass |
| | 331, 331a, 331b and 331c | Access for station |
| Metropolitan Borough of North Tyneside | ~~012,~~ 012a~~, 013, 014, 015 and 016~~ | Access for construction, inspection and maintenance of underpass |
| | 052, 055, 056, 061, 062 and 064 | Access for station |

# SCHEDULE ~~7~~6

Article ~~18~~17

# MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

*Compensation enactments*

**1.** The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modification as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

**2.**—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, substitute—

(5A) If—

(a) the acquiring authority enter on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 5(5) of Schedule ~~7~~ 6 to the Northumberland Line Order 202[*] ("the 202[*] Order"));

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A of the 1965 Act (as substituted by paragraph 5(8) of Schedule ~~7~~ 6 to the ~~2020~~ 202[*] Order) to acquire an interest in the land; and

(c) the acquiring authority enter on and takes possession of that land,

the authority is deemed for the purposes of subsection 3(a) to have entered on that land when it entered on that land for the purpose of exercising that right..

**3.**—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph 2(2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(a) for "land is acquired or taken from" substitute "a right over land"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable".

*Application of Part 1 of the 1965 Act*

**4.** Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by article ~~16~~ 15 (application of Part 1 of the 1965 Act) to the acquisition of land under article ~~15~~ 14 (power to acquire land), applies to the compulsory acquisition of rights under article ~~18~~ 17 (power to acquire new rights)—

(a) with the modification specified in paragraph 5; and

(b) with such other modifications as may be necessary.

**5.**—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

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(**a**) 1973 c. 26.

(3) For section 7 (measure of compensation in the case of severance) of the 1965 Act substitute—

> **7.** In assessing the compensation to be paid by the acquiring authority under this Act regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act..

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (refusal to convey, failure to make title, etc.);

(b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry)(**a**) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article ~~15~~ 14 (power to acquire land)), it has power, exercisable in the equivalent circumstances and subject to the equivalent conditions, to enter for the purpose of exercising that right; and sections 11A (powers of entry: further notices of entry)(**b**), 11B (counter-notice requiring possession to be taken on specified date)(**c**), 12 (unauthorised entry)(**d**) and 13 (refusal to give possession to acquiring authority)(**e**) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will etc.)(**f**) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act (as modified by article ~~16~~ 15 (application of Part 1 of the 1965 Act)) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

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(**a**) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 6 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(**b**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(**c**) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016.

(**d**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016.

(**e**) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**f**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

# SCHEDULE 2A

## COUNTER-NOTICE REQUIRING PURCHASE OF LAND

*Introduction*

**1.**—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, the whole or part of a house, building or factory.

(2) But see article ~~19~~ 18 (power to acquire subsoil or airspace only) of the Northumberland Line Order 202[*], which excludes the acquisition of subsoil or airspace only from this Schedule.

**2.** In this Schedule "house" includes any park or garden belonging to a house.

*Counter-notice requiring purchase of land*

**3.** A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

**4.** A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

*Response to counter-notice*

**5.** On receiving a counter-notice, the authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

**6.** The authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

**7.** If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

**8.** If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

**9.** If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

*Determination by the Upper Tribunal*

**10.** On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

**11.** In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right,

(b) the proposed use of the right to be acquired, and

(c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**12.** If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

**13.** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**14.**—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal..

# SCHEDULE ~~8~~7

Article ~~20~~19

## LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| *(1)*<br>*Area* | *(2)*<br>*Number of land shown on the land and works plans* | *(3)*<br>*Purpose for which temporary possession may be taken* |
|---|---|---|
| County of Northumberland | 106a | Worksite and access for railway works including works to underbridge 36 |
| | 114 | Worksite and access for railway works including level crossing works |
| | 115, 117, 118 and 119 | Worksite for railway works and construction of parking bay |
| | 121 | Worksite for railway works including level crossing works |
| | 126 and 126a | Worksite for drainage works |
| | 130 | Worksite in connection with construction of station |
| | 136 | Worksite for construction of parking bay |
| | 138, 139 and 140 | Worksite for accommodation works |
| | 141a, 141c, ~~145, 147,~~ 151, 152, 152b, 153, 154, 155, 163, 165~~,~~ and 166~~, 168, 169, 170 and 171~~ | Worksite for railway works |
| | 178 | Construction of highway works |
| | 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213 and 214 | Laying out of parking bays and noise mitigation works |
| | 215 and 216 | Worksite for railway works |
| | 217, 217a, 219, 223, 223b, 224, 233, 234, 237, 237a, 237b and 238 | Worksite for construction of footbridge |
| | 246 | Laying out of parking bays and installing level crossing apparatus |
| | 252, 253~~,~~ and 253a ~~and 257a~~ | Worksite for construction of cycleway and bridge for cyclists and pedestrians |
| | 260 and 261 | Worksite for railway works |
| | 269a, 270a, 271a, 272a, 273a and 274a | Worksite for construction of station |
| | 281, 289, 290, 291~~,~~ and 292 ~~and 295~~ | Worksite for railway works and construction of station |
| | 298 | Worksite for railway works |
| | 299, 300 and 302 | Worksite for railway works including level crossing |

| | | |
|---|---|---|
| | 304 | Worksite for railway works |
| | 306, 307, 308 and 309 | Worksite for railway works |
| | 312, 313, 314a, 316a, 317, 318, 319 and 319e | Worksite for construction of underpass |
| | 320 | Worksite for railway works and construction of station |
| Metropolitan Borough of North Tyneside | 001, 001a, 002, 008, 009, 010, 011, 017, 017b, 018b, 019 and 019a | Worksite and access for construction of underpass |
| | 040 | Worksite and access |
| | 050 and 051 | Worksite and access for construction of station |
| | 071a, and 072a, 073a and 076 | Worksite and access |
| | 077, 080, 080a, 081, 081a, 082, 082b, 083, 085, 086, 086a, 087, 090, 093 and 095 | Worksite and access for railway works including works to underbridge 35 |
| | 100a, 101, 102, 103a, 104a, 105a, 106c and 106d | Worksite and access for railway works including works to underbridge 36 |

# SCHEDULE ~~9~~8

Article ~~21~~20

## LAND ON WHICH A TEMPORARY RIGHT OF ACCESS MAY BE EXERCISED

| *(1)*<br>*Area* | *(2)*<br>*Number of land shown on the land and works plans* |
|---|---|
| County of Northumberland | 106b, 107, 108, 109, 110, 111, 112, 120, 122, 123, 124, 141, 141b, 152a, 156, 157, 158, 159, 160, 161, 238a, 239, 240, 257, 296, 297 and 301 |
| Metropolitan Borough of North Tyneside | 024, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 039, 065, 066, 067, 068, 069, 070, 071, 073, 074, ~~075,~~ 092, 097, 098, 099 and 100 |

# SCHEDULE ~~10~~9

Article 3

## TEMPORARY WORKSITES

| *(1)*<br>*Area* | *(2)*<br>*Number of land shown on the land and works plans* |
|---|---|
| County of Northumberland | 128, 131, 132, 132a, 133, 134, 135, 248, 249, 267, 268, 269, 270, 271, 272, 273, 274, 282, 283, 284, 285, 286, 287, 288, 293, 294, 321, 322, 323, 324, 325, 326, 327, 329 and 330 |
| Metropolitan Borough of North Tyneside | 042, 043, 046, 047, 048, 049, 057 and 060 |

# SCHEDULE ~~11~~10

Article ~~31~~30

# PROTECTIVE PROVISIONS

## PART 1

## PROTECTION FOR STATUTORY UNDERTAKERS, ETC.

*Apparatus of statutory undertakers, etc. on land acquired*

**1.**—(1) Sections 271 to 274 (extinguishment of rights of statutory undertakers etc.)(**a**) of the 1990 Act apply in relation to any land within the Order limits acquired or appropriated by the Council or Network Rail for the purpose of the development subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under section 271 and 272, and sections 279(2) to (4), 280 and 282(**b**) which provide for the payment of compensation) have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the Council compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) does not apply in the case of the removal of a public sewer, but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that sub-paragraph, any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the Council compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making that person's drain or sewer communicate with any other public sewer or with a private sewerage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus as respects which paragraph 2, or Part 3 of the 1991 Act applies.

(6) In this paragraph—

"the 1991 Act" means the New Roads and Street Works Act 1991(**c**);

"public communications provider" has the same meaning as in section 151(1) of the Communications Act 2003; and

"public utility undertakers" has the same meaning as in the 1980 Act(**d**).

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(**a**) Sections 272 to 274 were amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).
(**b**) Section 279(3) was amended by paragraph 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by S.I. 2009/1307.
(**c**) 1991 c. 22.
(**d**) The definition of "public utility undertakers" was amended by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15) and section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29).

*Apparatus of statutory undertakers, etc. in stopped up highways*

**2.**—(1) Where a highway is stopped up under article 7 (closure of level crossings) or article ~~9~~ 8 (stopping up of streets) any statutory utility whose apparatus is under, in, upon, over, along or across the highway has the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where a highway is stopped up under article 7 or ~~9~~ 8 any statutory utility whose apparatus is under, in upon, over, along or across that highway may where reasonably necessary for the efficient operation of the undertaking of the statutory utility, or if reasonably requested to do so by the Council must—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

(b) provide other apparatus in substitution for the existing apparatus and place it in that other position.

(3) Subject to the following provisions of this paragraph, the Council must pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

(a) the execution of relocation works required in consequence of the stopping up of the highway; and

(b) the doing of any other work or thing rendered necessary by the execution of relocation works.

(4) If in the course of the execution of relocation works under sub-paragraph (2)—

(a) apparatus of better type, of greater capacity or of greater dimension is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimension; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Council, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of sub-paragraph (4)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this sub-paragraph, would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) (and having regard, where relevant, to sub-paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Sub-paragraphs (3) to (6) do not apply where the development constitutes major transport works or major highway works for the purposes of Part 3 of the 1991 Act, but instead—

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being have effect under that section; and

(b) the allowable costs are to be borne by the Council and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this paragraph—

"the 1991 Act" means the New Roads and Street Works Act 1991(**a**);

"apparatus" has the same meaning as in Part 3 of the 1991 Act;

"relocation works" means work executed, or apparatus provided, under sub-paragraph (2); and

"statutory utility" means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in paragraph 1(6).

# PART 2

## PROTECTION FOR NETWORK RAIL INFRASTRUCTURE LIMITED

**3.** The following provisions of this Part have effect, unless otherwise agreed in writing between the Council and Network Rail and, in the case of paragraph 17 any other person on whom rights or obligations are conferred by that paragraph.

**4.** In this Part of this Schedule—

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 of the Railways Act 1993;

"Network Rail" means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail Infrastructure Limited and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and

"specified work" means so much of any of the development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**5.**—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

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(**a**) 1991 c. 22.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the Council with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the development pursuant to this Order.

**6.**—(1) The Council must not exercise the powers conferred by—

(a) article 4 (power to survey and investigate the land);

(b) article 5 (discharge of water);

(c) article 6 (felling or lopping of trees);

(d) article ~~15~~ 14 (power to acquire land);

(e) article ~~18~~ 17 (power to acquire new rights);

(f) article ~~19~~ 18 (power to acquire subsoil or airspace only);

(g) article ~~20~~ 19 (temporary use of land in connection with the development);

(h) article ~~21~~ 20 (temporary use of land for access);

(i) article ~~24~~ 23 (private rights over land);

(j) or the powers conferred by section 11(3) of the 1965 Act,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The Council must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The Council must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The Council must not under the powers of this Order acquire or use or acquire new rights over any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

**7.**—(1) The Council must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the Council may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the Council. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer will be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the Council that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the Council desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the

reasonable satisfaction of the Council in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the Council.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the Council, if Network Rail so desires, and such protective works must be carried out at the expense of the Council in either case without unnecessary delay and the Council must not commence the construction of the specified works until the engineer has notified the Council that the protective works have been completed to their reasonable satisfaction.

**8.**—(1) Any specified work and any protective works to be constructed by virtue of paragraph 7(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 7;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the Council must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the Council with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the Council or its servants, contractors or agents.

**9.** The Council must—

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

**10.** Network Rail must at all times afford reasonable facilities to the Council and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the Council with such information as it may reasonably require with regard to such works or the method of constructing them.

**11.**—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the Council reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the Council must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by

Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the Council, Network Rail gives notice to the Council that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the Council decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the Council must, notwithstanding any such approval of a specified work under paragraph 7(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 12(a) provide such details of the formula by which those sums have been calculated as the Council may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the Council to Network Rail under this paragraph.

**12.** The Council must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the Council as provided by paragraph 7(3) or in constructing any protective works under the provisions of paragraph 7(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the Council and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**13.**—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the development (including the operation of tramcars using the tramway comprised in the works) where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 7(1) for the relevant part of the development giving rise to EMI (unless the Council has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the Council must in the design and construction of the development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the Council's compliance with sub-paragraph (3)—

(a) the Council must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 7(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the Council all information in the possession of Network Rail reasonably requested by the Council in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the Council reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 7(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations comprised in the development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the development causes EMI then the Council must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the Council's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

(a) the Council must afford reasonable facilities to Network Rail for access to the Council's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the Council for access to Network Rail's apparatus in the investigation of such EMI; and

(c) Network Rail must make available to the Council any additional material information in its possession reasonably requested by the Council in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the Council reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the Council in accordance with paragraph 8.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 17(1) applies to the costs and expenses reasonably incurred or losses suffered by network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 12(a) any modifications to Network Rail's apparatus under this paragraph will be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article ~~39~~ 38 (arbitration) to the Institution of Civil Engineers should be read as a reference to the Institution of Engineering and Technology.

**14.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the Council informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the Council must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**15.** The Council must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**16.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the Council, be repaid by the Council to Network Rail.

**17.**—(1) The Council must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article ~~38~~ 37 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction or maintenance of a specified work or the failure thereof or

(b) by reason of any act or omission of the Council or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the Council or any person in its employ or of its contractors or others whilst accessing to or egressing from the development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the development by the Council or any person in its employ or of its contractors or others;

and the Council must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the Council or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision does not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the Council from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the Council reasonable written notice of any such claim or demand and no settlement or compromise of such a claim or demand will be made without the prior consent of the Council.

(3) The sums payable by the Council under sub-paragraph (1) will if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs will, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

"the relevant costs" means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**18.** Network Rail must, on receipt of a request from the Council, from time to time provide the Council free of charge with written estimates of the costs, charges, expenses and other liabilities for which the Council is or will become liable under this Schedule (including the amount of the relevant costs mentioned in paragraph 17) and with such information as may reasonably enable the Council to assess the reasonableness of any such estimate or claim made or to he made pursuant to this Schedule (including any claim relating to those relevant costs).

**19.** In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the Council under this Schedule or increasing the sums so payable.

**20.** The Council and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the Council of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**21.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

**22.** The Council must give written notice to Network Rail if any application is proposed to be made by the Council for the Secretary of State's consent, under article ~~28~~ 27 (power to transfer benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**23.** The Council must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article ~~36~~ 35 (certification of plans etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

**24.** In relation to any dispute arising under this part of this Schedule (except for those disputes referred to in paragraph 13(11)) the provisions of article ~~39~~ 38 (arbitration) will not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order confers powers on Northumberland County Council to acquire compulsorily land and rights in land, to use land temporarily, to close level crossings and to stop up and divert highways and carry out works in connection with development required to re-introduce passenger rail services to the existing railway between Ashington and Newcastle upon Tyne.

Copies of the rights of way plans, the land and works plans and the book of reference referred to in the Order may be inspected at the offices of Northumberland County Council at County Hall, Morpeth, Northumberland, NE61 2EF.

| Summary Report | |
|---|---|
| Title | **pdfDocs compareDocs Comparison Results** |
| Date & Time | 09/11/2021 09:38:21 |
| Comparison Time | 13.55 seconds |
| compareDocs version | v4.3.400.130 |

| Sources | |
|---|---|
| Original Document | [#127314738] [v1] The Northumberland Line Order 202[X] - (MASTER - POST APPLICATION - GEORGE TO EDIT).doc |
| Modified Document | [#127314738] [v2] The Northumberland Line Order 202[X] - (MASTER - POST APPLICATION - GEORGE TO EDIT).doc |

| Comparison Statistics | |
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| Insertions | 36 |
| Deletions | 32 |
| Changes | 197 |
| Moves | 0 |
| Font Changes | 0 |
| Paragraph Style Changes | 0 |
| Character Style Changes | 0 |
| TOTAL CHANGES | 265 |
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| Word Rendering Set Markup Options | |
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| Insertions | |
| ~~Deletions~~ | |
| Moves / ~~Moves~~ | |
| Font Changes | |
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| Deleted cells | |
| Merged cells | |
| Changed lines | Mark left border. |
| Comments color | By Author. |
| Balloons | False |

| compareDocs Settings Used | Category | Option Selected |
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| Include Moves | Word | False |
| Flatten Field Codes | Word | True |
| Show Track Changes Toolbar | Word | True |
| Show Reviewing Pane | Word | True |
| Update Automatic Links at Open | Word | [Yes / No] |
| Summary Report | Word | End |
| Detail Report | Word | Separate (View Only) |
| Document View | Word | Print |
| Remove Personal Information | Word | False |