

TRANSPORT AND WORKS ACT 1992

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

THE NETWORK RAIL (OLD OAK COMMON GREAT WESTERN MAINLINE
TRACK ACCESS) ORDER

EXPLANATORY MEMORANDUM

This memorandum explains the purpose and effect of each article and schedule in the draft Network Rail (Old Oak Common Great Western Mainline Track Access) Order (the "Order"), as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (S. I. 2006 No. 1466).

An application for the Order has been made by Network Rail Infrastructure Limited ("Network Rail"). The Order would confer powers to compulsorily acquire [a rights](#) in land and take temporary possession of land, as well as to undertake certain ancillary works, all in connection with the development of a temporary road rail ~~vehicle~~-access [via a road rail access point](#) onto the Great Western Main Line ~~railway~~-to enable delivery of the [high speed and conventional stations at](#) Old Oak Common ~~station~~-and provision of a permanent maintenance access point for road rail vehicles onto the Great Western Mainline, including any other works and operations incidental to or ancillary to such development (the "Development"). [\[NRF: amended to reflect the definition of "associated development" in the Order\]](#)

The majority of the works associated with the Development will be permitted development within the permitted development rights under Part 18 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596) and the High Speed Rail (London – West Midlands) Act 2017 (2017 c. 7).

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

PART 1

PRELIMINARY

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

Article 2 (*Interpretation*) contains provisions for the interpretation of words and phrases used in the Order. Definitions additional to

those set out in the Model Clauses have been included in the article to provide clarity, taking into account the specific provisions of the Order.

A new paragraph (3) explains that references to numbered plots are references to plot numbers on the deposited plans. This has been added to provide clarity and has precedent in the Network Rail (Huyton) Order 2014 (S.I. 2014 No. 2027), the Network Rail (Hope Valley Capacity) Order 2018 (S.I. 2018 No. 446) and the Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S.I. 2020 No. 114).

PART 2

WORKS PROVISIONS

Article 3 (*Power to use and execute temporary works on land within the Order limits*) authorises Network Rail to use land as a temporary construction compound in connection with the Development. These works may be carried out in the land specified in schedule 2 (land of which temporary possession may be taken). The draft of article 3 departs from the model provision because of the limited nature and scope of the works authorised by the Order.

PART 3

ACQUISITION AND POSSESSION OF LAND

Article 4 (*Application of Part 1 of the 1965 Act*) applies, with modifications, the provisions of Part 1 of the Compulsory Purchase Act 1965 (c. 56). This provision is altered from the model clause to reflect changes introduced by the Housing and Planning Act 2016 (c. 22) and the Levelling-up and Regeneration Act 2023 (c. 55). Paragraph (1)(c) extends the period within which a notice to treat may be served to five years. Paragraph (3) reduces the minimum notice period required to be given in notices to treat. Paragraph (4) makes it clear that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the temporary possession or use of land under article 7 of this Order. Paragraph (5) provides that the temporary possession of land under article 7 of this Order does not enable a counter-notice requiring the purchase of land to be served. These modifications have precedent in the Northumberland Line Order 2022 (S.I. 2022 No. 820) and in the The Network Rail (Essex and Others Level Crossing Reduction) Order 2022 (S.I. 2022 No. 651).

Article 5

(*Application of the 1981 Act*) provides for the Order to apply as if it were a compulsory purchase order for the purposes of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66). In the light of amendments to the 1981 Act made by the Levelling-up and Regeneration Act 2023 (c. 55), paragraph (2) has been added to provide that a general vesting declaration may be made within 5 years of the date on which the Order becomes operative. The remaining paragraphs of the article provide for the 1981 Act to have effect subject to certain modifications. These amendments have precedent in Northumberland Line Order 2022 (S.I. 2022 No. 820) and The Network Rail (Essex and Others Level Crossing Reduction) Order 2022 (S.I. 2022 No. 651).

Article 6

(*Power to acquire a new right*) enables Network Rail to acquire ~~easements or other~~ rights over the land specified in column (2) of Schedule 1 (*land in which only a new right~~s etc.~~, may be acquired*) for the purpose of permanent maintenance access for road rail vehicles onto the Great Western Mainline. [NRF: the Order does not provide for the acquisition of any “easements”, and acquisition is proposed of a singular “right”, not “rights” in the plural]

The power in paragraph (1) is intended to allow Network Rail to provide an access across plot -3 to plot 1. As such, the exercise of the power in paragraph (1), which relates to plot 3 only, is conditional on Network Rail separately acquiring such an interest in ~~the~~ plot 1 on the land plan as is Network Rail ~~deems~~ necessary to allow the purpose set out in column (3) of schedule 1 to be achieved. [NRF: the Order contains no deeming provision, this is a hangover from the previous draft of the Order]

Paragraph (3) provides that where Network Rail needs only to acquire a right over land, it is not obliged to acquire any greater interest in that land.

Paragraph (4) applies Schedule 3 for the purpose of modifying legislation relating to compensation so as to apply to the compulsory acquisition of a new right under this Order. These are consequential modifications which, as regards compensation legislation and the 1965 Act, have precedent in, for example, The Network Rail (East West Rail) (Bicester to Bedford Improvements) Order 2020 (S. I. 2020 No. 114).

Temporary possession or use of land

Article 7

(*Temporary use of land in connection with the development*) enables Network Rail, in connection with the carrying out of the development ~~and associated development~~ [NRF: this wording has been deleted from the Order see Art 7(1)], to take temporary possession of land listed in column (2) of Schedule 2 (land of which temporary possession may be taken). Paragraph (11) has been added to provide that the powers conferred under the article cease at the end of the period of 1 year from the date on

which the Order comes into force. Paragraph (12) provides that the period of 1 year will be extended in the event of an application to the court challenging any powers under the Order.

Article 8 (*Disregard of certain interests and improvements*) provides that in assessing the compensation payable in respect of compulsory acquisition, the Upper Tribunal shall disregard any interest in land or any enhancement of an interest in land caused by improvements which the Upper Tribunal is satisfied were created or undertaken with a view to obtaining compensation or increased compensation.

Article 9 (*Extinction or suspension of private rights of way*) provides for the extinguishment of private rights of way over land -in respect of which Network Rail has acquired rights where their continuance would be inconsistent with the exercise of Network Rail's right ~~and~~ required for the purpose of the Order, and the suspension of private rights of way in respect of land temporarily occupied and for payment of compensation, save for any rights of access to Acton House, 235 Horn Lane, London W3 9EJ.

PART 4

MISCELLANEOUS AND GENERAL

Article 10 (*Statutory undertakers, etc.*) provides that the Order will not affect the rights of statutory undertakers to maintain apparatus.

Article 11 (*Certification of plan, etc.*) provides for Network Rail to submit to the Secretary of State for certification the book of reference and the land plan after the making of this Order.

Article 12 (*Service of notices*) makes provisions as to the service of notices or other documents for the purposes of this Order.

Article 13 (*No double recovery*) prevents compensation being payable in respect of the same matter both under the Order and under any other enactment, contract or any other rule of law.

Article 14 (*Arbitration*) makes provision for differences arising under any provision of this Order to be determined by arbitration.