

202[] No. 0000

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

The Network Rail (Cambridge Re-Signalling) Order 202[]

Made - - - - - ***

Coming into force ***

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”)

[Objections to that application have been withdrawn.]

[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[The Secretary of State, having considered [the objections made and not withdrawn] [and the report of the person who held the inquiry], has determined to make an Order giving effect to the [proposals comprised in the application [without modifications] [with modifications which in the opinion of the Secretary of State do not make any substantial change in the proposals]] [proposals concerned with modifications which in the opinion of the Secretary of State make a substantial change in the proposals.]

[The Secretary of State having considered representations duly made under section 13 of the 1992 Act, has determined to make the Order applied for with modifications.]

Notice of the Secretary of State’s determination was published in the London Gazette on [] 202[].

The Secretary of State in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 3, 4, 7, 8, 11 and 16 of Schedule 1 to, the 1992 Act makes the following Order.

(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, S.I. 2017/1070 and S.I. 2019/311.

(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.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Network Rail (Cambridge Re-Signalling) Order 202[] and comes into force on [].

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);

“the 1981 Act” means the Compulsory Purchase (Vesting Declaration) Act 1981(e);

“the 1990 Act” means the Town and Country Planning Act 1990(f);

“the 1991 Act” means the New Roads and Street Works Act 1991(g);

“the 2015 Order” means the Town and Country Planning (General Permitted Development) (England) Order 2015(h);

“address” includes any number or address used for the purpose of electronic transmission;

“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;

“building” includes any structure or erection or any part of a building, structure or erection;

“the development” means the works required for the re-signalling of the Cambridge station interlocking area and the upgrade of the relevant level crossings, including any other works and operations incidental or ancillary to such works, permitted by—

(a) the planning permissions; and

(b) the 2015 Order, including Part 8 and 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 31(1) (meaning of electronic communications networks and services) of the Communications Act 2003(i);

“the enabling Acts” means:

(a) the Norwich and Brandon Railway Act 1845(j);

(b) the Newmarket and Chesterford Railways Act 1846(k);

(c) 1961 c. 33

(d) 1965 c. 56

(e) 1981 c. 66

(f) 1990 c. 8

(g) 1991 c. 22

(h) S.I. 2015/596

(i) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

(j) 1845 c. cliv

(k) 1846 c. clxxii

- (c) the Eastern Counties Railway Act 1847(l); and
 - (d) the Royston and Hitchin Railway Amendment (Shepreth Extension) Act 1848(m);
- “the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order;

“Network Rail” means Network Rail Infrastructure Limited (Company No. 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the limits of land to be acquired or used shown on the land plans;

“owner” in relation to land, has the same meaning as in the Acquisition of Land Act 1981(n);

“the planning permissions” means—

- (a) the following planning permissions:
 - (i) the planning permission under reference [] granted on [] under the 1990 Act by South Cambridgeshire District Council for installation of relocatable equipment buildings including any other works and operations incidental or ancillary to such works at the Foxton (Hauxton), ~~Six Mile Bottom~~ and Meldreth Level Crossings; and
 - (ii) the planning permission under reference [] granted on [] under the 1990 Act by Breckland Council for installation of relocatable equipment building including any other works and operations incidental or ancillary to such works at the Croxton Level Crossing;
- (b) any planning permission granted under section 73(o) (determination of applications to develop land without compliance with conditions previously attached) of the 1990 Act directly related to any of those planning permissions; and
- (c) any other planning permissions granted under the 1990 Act for the development listed in (a);

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for 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 Communications Act 2003(p); and

“the tribunal” means the Lands Chamber of the Upper Tribunal.

(2) References in this Order to rights over land include references to the right to do, or to place and maintain, anything in, on or under land or in the air-space above its surface.

PART 2

STREETS

Stopping up of streets

3. —(1) Subject to the provisions of this article, Network Rail may stop up each of the streets specified in columns (1) and (2) of Schedule 1 (streets to be stopped up) to the extent specified in column (3) of that Schedule.

(l) 1847 c. clvi

(m) 1848 c. cxix

(n) 1981 c. 67. The definition of the “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.

(o) Section 73 was amended by sections 42(2), 51(3) and 120 of, and Schedule 9 to the Planning and Compulsory Purchase Act 2004 (c. 5), section 14(4) of, and paragraphs 1 and 4 of Schedule 3 to, the Neighbourhood Planning Act 2017 (c. 20) and section 98 of, and paragraph 3(1) and (5) of part 2 of Schedule 14 to, the Environment Act 2021 (c. 30).

(p) 2003 c. 21

(2) Where a street has been stopped up under this article all rights of way over or along the street so stopped up are extinguished.

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

(4) This article is subject to Schedule 6 (apparatus of statutory undertakers, etc. in stopped up streets) to this Order.

PART 3

ACQUISITION AND POSSESSION OF LAND

Power to acquire land

4.—(1) Network Rail may acquire compulsorily so much of the land shown on the land plans as land to be acquired compulsorily 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 its railway undertaking.

(2) This article is subject to paragraph (2) article 7 (power to acquire new rights), paragraph (8) of article 8 (temporary use of land in connection with the development), article 9 (temporary use of land for oversailing and access) and article 12 (time limit for exercise of powers of acquisition).

Application of Part 1 of the 1965 Act

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and;
- (b) as if this Order was 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).

(4) In section 4A(1)(q) (extension of time limit during challenge) 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 12 (time limit for exercise of powers of acquisition) of the Network Rail (Cambridge Re-Signalling) Order 202[]”.

(5) In section 11(1B)(r) (power of entry) 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(s) (powers of entry: further notices of entry)—

- (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) (interests omitted from purchase), for “section 4 of this Act” substitute “article 12 (time limit for exercise of powers of acquisition) of the Network Rail (Cambridge Re-Signalling) Order 202[]”.

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

(q) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(r) Subsection (1B) was inserted by 186(3) of the Housing and Planning Act 2016.

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

(t) Schedule 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016.

- (a) omit paragraphs 1(2) and 14(2); 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 8 (temporary use of land in connection with the development) of the Network Rail (Cambridge Re-Signalling) Order 202[].”

Application of the 1981 Act

- 6.** —(1) The 1981 Act applies as if this Order was 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 5A(**u**) (time limit for general vesting declaration).
- (5) In section 5B(1)(**v**) (extension of time limit during challenge) 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 12 (time limit for exercise of powers of acquisition) of the Network Rail (Cambridge Re-Signalling) Order 202[]”.
- (6) In section 6 (**w**) (notices after execution of declaration), in subsection (1)(b) for “section 15 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(**x**) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) In Schedule A1(**y**) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (9) References to the 1965 Act are to be construed as references to that Act as applied to the acquisition of land by article 5 (application of Part 1 of the 1965 Act).

Power to acquire new rights

- 7.** —(1) Subject to paragraph (2), Network Rail may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 4 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 easement or other rights already in existence.
- (2) In the case of the Order land specified in column (2) of Schedule 2 (land in which only new rights etc., may be acquired) Network Rail may compulsorily acquire such new rights as may be required for the purpose specified in relation to that land in column (3) of that Schedule, by creating them as well as by acquiring such rights of access or other easements already in existence.
- (3) In the case of plot shown numbered 306 on the land plans the power to acquire new rights under paragraph (2) extends to acquiring rights on behalf of owners of land affected by the

(**u**) Section 5A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016.

(**v**) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.

(**w**) 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.

(**x**) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.

(**y**) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

exercise of the powers of the Order for the purpose specified in relation to those plots in column (2) of Schedule 2.

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

(5) Schedule 5 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation, and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Temporary use of land in connection with the development

8.—(1) Subject to the provisions of article 13 (statutory undertakers, etc.), Network Rail may in connection with the development—

- (a) enter upon and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 3 (land of which temporary possession may be taken) for the purposes described in column (3) of that Schedule; and
 - (ii) subject to paragraph (10), any other Order land in respect of which no notice of entry has been served under section 11(z) (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(aa) (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 3 or any mitigation works on that land.

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

(3) Subject to article 4 (power to acquire land), Network Rail 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 as specified in column (3) of Schedule 3 in respect of that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but Network Rail is not required to replace a building removed in connection with the implementation of the development.

(5) Network Rail 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 as if it were a dispute under Part 1 of the 1961 Act.

(z) 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 16 to, the Housing and Planning Act 2016 (c. 22) and S. I. 2009/1307.

(aa) Section 4 was amended by sections 184 and 185 of, and paragraphs 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016.

(7) Without affecting article 16 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(bb) (further provision as to compensation for injurious affection) of the 1965 Act or under any other enactment in respect of loss or damage for which compensation is payable under paragraph (5).

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

(9) Section 13(cc) (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 5(1) (application of Part 1 of the 1965 Act).

(10) Paragraph (1)(a)(ii) does not authorise Network Rail to take temporary possession of any land which it is not authorised to acquire under article 4 (power to acquire land) or any land specified in Schedule 2 (land in which only new rights etc., may be acquired).

Temporary use of land for oversailing and access

9.—(1) Network Rail may enter upon and use the land (and the airspace above that land) specified in Schedule 4 (land which may be used for oversailing and access)—

- (a) for the oversailing of cranes and other equipment used by Network Rail in connection with the development; and
- (b) for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of or in connection with the construction of the development.

(2) The power under paragraph (1) is only exercisable on giving at least 7 days' notice (or where access is urgently required under paragraph (1)(b), such notice as is reasonably practicable) to the owners and occupiers of the land.

(3) Paragraph (2) does not require notice to be given in relation to land used under paragraph (1)(b) where notice under that paragraph has already been given in relation to that land.

(4) Network Rail may not, without the agreement of the owners of the land, use airspace above the surface of the land as mentioned in paragraph (1)(a) after the end of 7 days beginning with the date of completion of the activities for which the crane has been used.

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

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

(7) Section 13 (refusal to give possession to 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 compulsory acquisition of land under this Order by virtue of article 5 (application of Part 1 of the 1965 Act).

Disregard of certain interests and improvements

10.—(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.

(bb) 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.

(cc) 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).

(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.

Extinction or suspension of private rights of way

11.—(1) Subject to the provisions of article 13 (statutory undertakers, etc.) and paragraph (7) all private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

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

(b) on the date of entry on the land by Network Rail under section 11(1)(**dd**) of the 1965 Act, whichever is the sooner.

(2) Subject to paragraph (7), all private rights of way over land owned by Network Rail which, being within the Order limits, is required for the purposes of this Order are extinguished on the appropriation of the land for any of those purposes by Network Rail.

(3) Subject to the provisions of this article, all private rights of way 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) as from the date of the acquisition of the right by Network Rail, whether compulsorily or by agreement; or

(b) on the date of entry on the land by Network Rail under section 11(1) of the 1965 Act, whichever is the sooner.

(4) Subject to paragraph (7), all private rights of way over land of which Network Rail takes temporary possession under this Order are suspended or unenforceable for as long as Network Rail remains in lawful possession of the land.

(5) Subject to paragraph (7), all public or private rights of way across the plot shown numbered 305 on the land plans are extinguished.

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

(7) Paragraphs (1), (2), (3), (4) and (5) have effect subject to—

(a) any notice given by Network Rail before the completion of the acquisition of the land, Network Rail’s appropriation of it, Network Rail’s entry onto it or Network Rail taking temporary possession of it that any or all of those paragraphs do not apply to any right of way specified in the notice; and

(b) any agreement made (whether before or after any of the events mentioned in sub-paragraph (a) and before or after the coming into force of this Order) which makes reference to this article between Network Rail and the person in or to whom the right of way in question is vested or belongs.

(8) If any such agreement as is mentioned in sub-paragraph (7)(b) is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(dd) 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 1291) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measures 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16, to the Housing and Planning act 2016 (c. 22) and S.I. 2009/1307.

Time limits for exercise of powers of acquisition

12.—(1) After the end of the period of 5 years beginning with 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 5 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 6 (application of the 1981 Act).

(2) The powers conferred by article 8 (temporary use of land in connection with the development) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail from remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

PART 4

MISCELLANEOUS AND GENERAL

Statutory undertakers, etc.

- 13.—**(1) Nothing in this Order affects the rights of statutory undertakers to maintain apparatus.
(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Certification of plans, etc.

14. Network Rail must, as soon as practicable after the making of this Order, submit copies of the book of reference and the land plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference and the land plans referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the content of the document of which it is a copy.

Service of notices

15.—(1) A notice or other document required or authorised to be served for the purpose of this Order may be served—

- (a) by post; or
- (b) with the consent of the recipient, and subject to paragraphs (5) 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^(ee) 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—

^(ee) 1978 c. 30.

- (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 transmission 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 purpose 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.

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

No double recovery

16. 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

17. 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

Natasha Kopala
Head of the Transport and Works Act Orders Unit
Department for Transport

Date

SCHEDULES

SCHEDULE 1

Article 3

STREETS TO BE STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Cambridgeshire County Council, South Cambridgeshire District Council and Shepreth Parish Council	Meldreth Road	Land parcels 005, 006, 008, 009 <u>and 010</u>
Cambridgeshire County Council, South Cambridgeshire District Council, Little Wilbraham and Six Mile Bottom Parish Council	London Road (A1304)	Land parcels 304, <u>parcel</u> 307
Cambridgeshire County Council, East Cambridgeshire District Council and Dullingham Parish Council	Station Road	Land parcel 401, 402, 403
Cambridgeshire County Council, South Cambridgeshire District Council and Milton Parish Council	Fen Road	Land parcel 601, 603
Cambridgeshire County Council, South Cambridgeshire District Council and Waterbeach Parish Council	Clayhithe Road	Land parcel 703
Cambridgeshire County Council, South Cambridgeshire District Council and Waterbeach Parish Council	Station Road	Land parcel 704
Norfolk County Council, Breckland District Council and Croxton Parish Council	Thetford Road (A1075)	Land parcels 902, 910 and 911

SCHEDULE 2

Article 7

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

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plans</i>	<i>(3)</i> <i>Purpose for which new private right may be acquired</i>
Cambridgeshire County Council, South Cambridgeshire District Council and Shepreth Parish Council	001	Permanent pedestrian access around exterior perimeter of equipment for use by maintainers
Cambridgeshire County Council, South Cambridgeshire District Council and Little Shelford Parish Council	100	Permanent pedestrian access around exterior perimeter of equipment for use by maintainers

Cambridgeshire County Council, South Cambridgeshire District Council, Little Wilbraham and Six Mile Bottom Parish Council	300, 302, 303, 306, 308, 312	Permanent right of access for landowner to allow access to the rear of their property
Cambridgeshire County Council, East Cambridgeshire District Council and Dullingham Parish Council	405	Permanent vehicular access from adopted highway to equipment for use by maintainers
Norfolk County Council, Breckland District Council and Croxton Parish Council	900	Permanent vehicular access from adopted highway to equipment for use by maintainers
Norfolk County Council, Breckland District Council and Croxton Parish Council	905, 907 and 909	Permanent pedestrian access around exterior perimeter of equipment for use by maintainers

SCHEDULE 3

Article 8

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number land shown on the land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
Cambridgeshire County Council, South Cambridgeshire District Council and Little Wilbraham and Six Mile Bottom Parish Council	300, 302, 303, 306, 308, 309, 310, 311, 312	Temporary vehicular and pedestrian access including construction area
Cambridgeshire County Council, East Cambridgeshire District Council and Dullingham Parish Council	400, 404, 405, 408, 409, 410, 412	Temporary vehicular and pedestrian access including construction area
Cambridgeshire County Council, South Cambridgeshire District Council and Milton Parish Council	602	Temporary construction area
Cambridgeshire County Council, South Cambridgeshire District Council and Waterbeach Parish Council	700	Temporary car park
Cambridgeshire County Council, East Cambridgeshire District Council and Stretham Parish Council	805	Temporary construction area and new temporary access onto adopted highway
Norfolk County Council, Breckland District Council and Croxton Parish Council	902 , 903, 905, 907 and 909	Temporary vehicular access and construction area

SCHEDULE 4

Article 9

LAND WHICH MAY BE USED FOR OVERSAILING AND ACCESS

<i>Area</i>	<i>Number of land shown on the land plans</i>
Cambridgeshire County Council, South Cambridgeshire District Council and Little Shelford Parish Council	104
Cambridgeshire County Council, East Cambridgeshire District Council and Dullingham Parish Council	404, 411
Cambridgeshire County Council, South Cambridgeshire District Council and Milton Parish Council	600
Cambridgeshire County Council, South Cambridgeshire District Council and Waterbeach Parish Council	701 and 702
Cambridgeshire County Council, East Cambridgeshire District Council and Stretham Parish Council	807
Norfolk County Council, Breckland District Council and Croxton Parish Council	905, 906 and 909

SCHEDULE 5

Article 7

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 modifications 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 interest in land.

2. —(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modifications 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 enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 5 to the Network Rail (Cambridge Re-Signalling) Order 202[] (“the 202[] Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 5 to the 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 purpose of subsection (3)(a) to have entered on that land when it entered on that land for the purposes of exercising that right.”.

3. —(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(ff) has effect subject to the modifications set out in sub-paragraph (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 the words “land is acquired or taken” substitute “a right over land is purchased”; and
- (b) for the words “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 of 1946) of the 1965 Act, as applied by article 5 (application of Part 1 of the 1965 Act) to the acquisition of land under article 4 (power to acquire land) applies to a compulsory acquisition of rights under article 7 (power to acquire new rights)—

- (a) with the modifications 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 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.

(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) (failure of owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraph 2(3) and 8(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 acquired compulsorily is vested absolutely in the acquiring authority.

(5) Section 11(gg) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority have 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 5(1), it has power, exercisable in the equivalent circumstances and subject to the equivalent

(ff) 1973 c. 26

(gg) 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 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.

conditions, to enter for the purpose of exercising that right; and sections 11A(**hh**) (powers of entry: further notices of entry), 11B(**ii**) (counter-notice requiring possession to be taken on specified date), 12(**jj**) (unauthorised entry) and 13(**kk**) (refusal to give possession to acquiring authority) of that Act are modified accordingly.

(6) Section 20(**ll**) (protection for interests of tenant at will etc.) 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 the 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 5(6) (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—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1. This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over a house building or factory.

2. In this Schedule, “house” include 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 their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

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

(**ii**) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(**jj**) 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.

(**kk**) 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).

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

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

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they 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 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 authority ought to be required to take.

13. If the Upper Tribunal determines that the 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 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 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 6

Article 3

APPARATUS OF STATUTORY UNDERTAKERS, ETC. IN STOPPED UP STREETS

1. Where a street is stopped up under article 3 (streets to be stopped up) any statutory utility whose apparatus is under, in, upon, along or across that street has the same powers and rights in respect of that apparatus, subject to the provisions of this Schedule, as if this Order had not been made.

2. Where a street is stopped up under article 3 (streets to be stopped up) any statutory utility whose apparatus is under, in, upon, over, along or across that street may, and if reasonably requested to do so by Network Rail must—

- (a) remove the apparatus and place it or other apparatus 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 Schedule, Network Rail must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

4. If in the course of execution of relocation works under paragraph 3—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; 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 Network Rail, 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 paragraph 3 is to be reduced by the amount of that excess.

5. For the purposes of 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 paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph 3 (and having regard, where relevant, to paragraph 4) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier to as to confer on the 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. Paragraphs 3 to 6 do not apply where the authorised works constitute major transport works for the purpose of Part 3 (street works in England and Wales) 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 having effect under that section; and
- (b) the allowable costs are to be borne by Network Rail and the statutory utility in such proportions as may be prescribed by any such regulations.

8. In this Schedule—

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

“relocation works” means work executed, or apparatus provided, under paragraph 2; and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act(**mm**) or a public communications provider as defined in section 151(1) (interpretation of chapter 1) of the Communications Act 2003(**nn**).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers powers on Network Rail Infrastructure Limited to acquire compulsorily land, and rights over land, and to use land temporarily in connection with the works required for the re-signalling of the Cambridge station interlocking area and the upgrade of the relevant level crossings, including any other works and operations incidental or ancillary to such works.

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

Copies of the land plans and the book of references referred to in the Order may be inspected at the offices of Network Rail Infrastructure Limited at Network Rail National Records Centre, Unit 5, Audax Road, Clifton Moor, York, YO30 4US.

(mm) 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).

(nn) 2003 c. 21.

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