



Railtrack (Waverley Station) Order Confirmation Act 2000

2000 CHAPTER vi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Railtrack (Waverley Station). [14th June 2000]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Confirmation of Order in Schedule

The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed.

2 Short title

This Act may be cited as the Railtrack (Waverley Station) Order Confirmation Act 2000.

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SCHEDULE

RAILTRACK (WAVERLEY STATION)

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Schedules:

Schedule 1 — Structures at Waverley Bridge, Market Street and New Street.

Schedule 2 — Repeals.

Provisional Order to limit the operation of restrictions which may affect Waverley Station in the city of Edinburgh or the land on which it is situated; to repeal certain local statutory provisions relating to Waverley Station; to make good the feudal title to some of the land within Waverley Station; and for connected purposes.

WHEREAS—

- (1) Waverley Station, Edinburgh (“Waverley Station”) is vested in Railtrack PLC (“the Company”) as the licensed operator of the station pursuant to the Railways Act 1993:
- (2) The Company’s Network Licence Conditions require the Company, inter alia, to secure the maintenance, renewal and replacement, and improvement, enhancement and development of the railway network (including Waverley Station) in a timely, economic and efficient manner so as to satisfy the reasonable requirements of persons providing services for the carriage of passengers or goods by railway and funders in respect of the quality and capability of the network; and to do so to the greatest extent reasonably practicable having regard, among other matters, to the Company’s ability to finance its licensed activities:
- (3) Waverley Station was last substantially re-designed and reconstructed following authorisation obtained in 1894 and is now inadequate to meet current and future needs as a key element in the railway infrastructure of Scotland and the United Kingdom as a whole:
- (4) The local Acts which authorised the construction of Waverley Station (“the station Acts”) contain various restrictions concerning the design of the station buildings and it is believed that there may be other restrictions affecting the station buildings:

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- (5) In particular, the Waverley Station (“the station Acts restrict the height of the station buildings. With the exception of certain specified structures, the general effect of the restrictions is to impose a maximum permissible building height of 42 feet (12.80 metres or thereby) above the level of the rails. Taking rail level as 49.91 metres or thereby above Ordnance Datum (Newlyn), this equates to 62.71 metres or thereby above Ordnance Datum (Newlyn):
- (6) The Company, through its statutory predecessors, has a leasehold title to approximately 384 square metres of the land now occupied by Waverley Station but such title as it has been able to acquire from the persons apparently entitled to the landlord’s heritable interest in the feudal title is or may be defective:
- (7) In order to improve and develop Waverley Station to meet current and future needs, and in order to fund such development, it will be necessary to enhance the station operations, and for that purpose to redesign, replace and enhance existing station structures:
- (8) In order to accommodate these changes the height of station buildings situated in the main station area must be increased by up to 2 metres, which requires a general maximum permissible building height throughout that area equating to 64.71 metres or thereby above Ordnance Datum (Newlyn):
- (9) In addition, it is intended to seek planning permission for buildings within the main station area which will or may include the structures briefly described below. Each of these will require the current maximum permissible building height relating to the land occupied by each structure to be increased by the amount specified below, equating to the Ordnance Datum levels also shown:
- (10) The structures referred to above are—

	Increase above current maximum height	Metres above Ordnance Datum (Newlyn)
(a) Translucent roof at Waverley Bridge (the rectangle marked “A” within area E on the signed plan)	8 metres	70.71
(b) Station entrance at Market Street (within area B on the signed plan)	3.5 metres	66.21
(c) Buildings at New Street and East Market Street (New Street Car Park)—		
(i) within area C on the signed plan,	10 metres	72.71
(ii) within area D on the signed plan.	13 metres	75.71

- (11) In preparation for extensive works which will be required to effect these changes it is expedient to disapply such restrictions as are known or believed to exist to the extent that they would or might prevent the intended works of improvement other than the like for like replacement of existing structures:

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- (12) It is expedient that the feudal title to the land the subject of the 1776 tack should be vested in the Company:
- (13) A plan of the land the feudal title to which is to be vested by this Order, and a book of reference to that plan containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said land, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the Sheriff Clerk, Edinburgh, which plan and book of reference are respectively referred to in this Order as the deposited plan and the deposited book of reference:
- (14) The purposes of this Order cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore, in pursuance of the powers contained in the said Act of 1936, the Secretary of State orders as follows:—

Short title

1 Short title

This Order may be cited as the Railtrack (Waverley Station) Order 2000.

Interpretation

2 Interpretation

In this Order—

“the 1776 tack” means the tack dated 2nd February 1776 and made between Dr. Thomas Glen and others, a quorum of the Committee of Managers of the Incorporation of the Orphan Hospital of the one part and Willielma Lady Glenorchy of the other part whereby the leased land was let for the term of 900 years from Whit Sunday 1775;

“the Company” means Railtrack PLC;

“the main station area” means the land shown for the purpose of identification only coloured green on the signed plan, comprising so much of Waverley Station as lies to the east of Waverley Bridge;

“the signed plan” means the plan of the main station area five copies of which have been signed by Eric Clarke, M.P., Chairman of the Commissioners to whom the draft of this Order was referred, and a copy of which has been deposited in each of the offices of the Clerk of the Parliaments, the Private Bill Office of the House of Commons, the Sheriff Clerk, Edinburgh, the Chief Executive of the City of Edinburgh Council and the Director, Scotland, of Railtrack; and

“Waverley Station” means Waverley Station in the city of Edinburgh.

Limitation of certain restrictions relating to Waverley Station

3 Limitation of certain restrictions relating to Waverley Station

- (1) Nothing in any instrument or in any enactment (including this Order) which relates to Waverley Station or to the main station area shall prevent the implementation of any grant of planning permission under the Town and Country Planning (Scotland) Act

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1997 or listed building consent under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 for the development of the main station area for railway and other uses which includes the construction of one or more buildings with a height not exceeding 64.71 metres above Ordnance Datum (Newlyn).

- (2) The Company shall pay to any person who suffers loss by reason of the operation of this section compensation determined, in case of difference, in accordance with the provisions of Part III of the Land Compensation (Scotland) Act 1963.

Dimensions of structures at Waverley Bridge, Market Street and New Street

4 Dimensions of structures at Waverley Bridge, Market Street and New Street

Without prejudice to the generality of section 3 of this Order, nothing in any instrument or in any enactment (including this Order) which relates to Waverley Station or to the main station area shall prevent the Company from implementing so much of any grant of planning permission under the Town and Country Planning (Scotland) Act 1997 or listed building consent under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as permits the construction in the main station area, within each of the areas of land described in column (1) of Schedule 1, of structures of the sort described in respect of each area in column (2) and of dimensions not exceeding those specified in column (3).

Leased land at Waverley Station: making good feudal title

5 Leased land at Waverley Station: making good feudal title

- (1) On the commencement of this Order the feudal title to so much of the land numbered 1 on the deposited plan as comprises the leased land shall vest in the Company to the extent that it is not already so vested.
- (2) The Company shall pay to any person who, immediately before 27th November 1998, was entitled to the landlord's heritable interest in the feudal title to the leased land compensation representing the value of the feudal interest in the leased land as at the commencement of this Order, the amount of such compensation to be determined in case of difference in accordance with Part III of the Land Compensation (Scotland) Act 1963.
- (3) Insofar as compensation under this section falls to be paid to the Trustees of the Dean Orphanage and Cauvin's Trust, there shall be off-set against the amount of such compensation all sums paid prior to the commencement of this Order by the Company to those Trustees in respect of the leased land.
- (4) The Company may require the persons from whom it has acquired what purports to be the feudal title to the leased land to provide an indemnity in respect of any subsequent claims made against the Company in respect of such title, but the amount of any such indemnity shall not exceed the total amount paid by the Company to those persons in respect of the leased land in terms of subsection (1) of this section.
- (5) In this section "the leased land" means the land (measuring 384 square metres or thereby and forming part of the land numbered 1 on the deposited plan) the subject of the 1776 tack.