STATUTORY INSTRUMENTS

2017 No. 1214

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Blackpool Tramway (Blackpool North Extension) Order 2017

Made - - - - 14th December 2017

Coming into force - - 4th January 2018

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(**1**) for an Order under sections 1 and 5 of the Transport and Works Act 1992(**2**) ("the 1992 Act").

The Secretary of State, having considered the objections made and not withdrawn, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State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 6th December 2017.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 5, 7, 8, 10, 11 and 15 to 17 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 Blackpool Tramway (Blackpool North Extension) Order 2017 and comes into force on 4th January 2018.

(**1**) S.I. 2006/1466, amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590, S.I. 2013/755 and S.I. 2017/1070.

(**2**) 1992 c. 42. Section 1 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 51 and 52; section 5 was amended by S.I. 2012/1659.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**3**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**4**);

"the 1980 Act" means the Highways Act 1980(**5**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**6**);

"the 1990 Act" means the Town and Country Planning Act 1990(**7**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**8**);

"the 1992 Act" means the Transport and Works Act 1992;

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

"the Applications Rules" means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;

"the authorised street tramway" means any street tramway authorised by this Order;

"the authorised tramroad" means any tramroad authorised by this Order;

"the authorised tram system" means the existing tram system, together with the tram system (consisting of the authorised street tramway and the authorised tramroad) authorised by this Order, or any part of that system;

"the authorised works" means the scheduled works and any other works or operations authorised by this Order, or any part of them;

"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;

"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;

"cycle track" has the same meaning as in the 1980 Act;

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

"the deposited sections" means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

"electric line" has the meaning given by section 64(1) of the Electricity Act 1989(**9**);

"electronic transmission" means a communication transmitted—

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

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

"the existing tram system" means the tram system comprised in the tramways undertaking referred to in section 70 (definition of tramways undertaking) of the County of Lancashire Act 1984(**10**) continued and maintained by the promoter under Head B (tramways undertaking) of Part 12 of that Act;

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

(**3**) 1961 c. 33.
(**4**) 1965 c. 56.
(**5**) 1980 c. 66.
(**6**) 1984 c. 27.
(**7**) 1990 c. 8.
(**8**) 1991 c. 22.
(**9**) 1989 c. 29.
(**10**) 1984 c. xxi.

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

"the limits of deviation" means the limits of lateral deviation mentioned in article 7(1)(a) and (2) for the scheduled works;

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

"the Order limits" means the permanent limits and the temporary limits;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**11**);

"parking place" has the same meaning as in section 32 (power of local authorities to provide parking places) of the 1984 Act;

"the permanent limits" means the limits of deviation and of land to be acquired or used as shown on the deposited plans, and described in the book of reference;

"the promoter" means the Blackpool Borough Council;

"public sewer or drain" means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, a local authority or a harbour authority within the meaning of the Harbours Act 1964(**12**);

"the scheduled works" means the works and operations specified in Schedule 1 (scheduled works) or any part of them;

"street" includes part of a street;

"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;

"street tramway" means any part of a tram system which is laid along a street whether or not the section of the street in which its rails are laid may be used by other traffic;

"the temporary limits" means the limits of land to be used temporarily as shown on the deposited plans, described in the book of reference and specified in columns (1) and (2) of Schedule 5 (land of which temporary possession may be taken);

"the traffic regulation plan" means the plan certified by the Secretary of State as the traffic regulation plan for the purposes of this Order;

"tramcar" means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a street tramway or tramroad;

"tramroad" means any part of a tram system which is not a street tramway;

"tram services" means passenger services utilising the authorised tram system;

"tram system" means a system of transport consisting of a street tramway or a tramroad or any combination of those modes of transport;

"the tribunal" means the Lands Chamber of the Upper Tribunal; and

"vehicle" includes mobile traction unit.

(2) 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.

(3) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to numbered plots are references to plot numbers shown on the deposited plans.

(**11**) 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 this Order.
(**12**) 1964 c. 40.

(5) References in this Order to points identified by letters and numbers are to be construed as references to the points marked on the deposited plans and the traffic regulation plan.

(6) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands are approximate, and distances between points on a scheduled work are taken to be measured along the scheduled work.

Application of enactments relating to railways

3.—(1) The provisions of the Regulation of Railways Acts 1840 to 1893 do not apply in relation to the authorised tram system.

(2) The provisions of the Highway (Railway Crossings) Act 1839(**13**) do not apply in relation to the authorised tram system.

(3) Nothing in this article affects the application to the authorised tramroad of sections 32 to 34 of the Offences Against the Person Act 1861(**14**).

Application of Order to existing Blackpool Tramway

4.—(1) From the beginning of the day on which the tram system authorised by this Order is first operated pursuant to an agreement under article 46 (powers of disposal, agreements for operation, etc.), the following provisions of this Order are to apply to the whole of the authorised tram system as they apply to the tram system authorised by this Order—

(a) article 24 (mode of construction and operation of tram system);

(b) article 38 (power to charge fares);

(c) article 39 (removal of obstructions);

(d) article 40 (traffic signs);

(e) article 41 (traffic regulation);

(f) article 43 (trespass on tramroad);

(g) subject to paragraph (3), article 44 (power to make byelaws);

(h) article 45 (power to contract for police services);

(i) article 46 (powers of disposal, agreements for operation, etc.);

(j) article 47 (application of landlord and tenant law);

(k) article 48 (tramcars deemed public service vehicles);

(l) article 49 (substitute road services);

(m) Part 5 (penalty fares); and

(n) article 62 (defence to proceedings in respect of statutory nuisance).

(2) The following provisions of the County of Lancashire Act 1984 are repealed at the beginning of the day on which the tram system authorised by this Order is first operated pursuant to an agreement under article 46 (powers of disposal, agreements for operations, etc.)—

(a) section 73 (tramways to be kept on level of surface of road);

(b) section 76 (provisions as to use of electrical energy);

(c) section 77 (temporary stoppage of roads);

(d) section 78 (removal of obstructions);

(e) subject to paragraph (3), section 79 (byelaws as to tramways undertaking);

(**13**) 1839 c. 45.
(**14**) 1861 c. 100.

(f) section 80 (regulations as to tramways undertaking);

(g) section 81 (power to charge for use of tramway);

(h) section 82 (application of lost property regulations); and

(i) section 83 (application of Tramways Act 1870).

(3) From the beginning of the day on which section 79 of the County of Lancashire Act 1984 is repealed by paragraph (2)(e), and despite the repeal of that section—

(a) any byelaws then applying to the existing tram system under that section are to continue to apply to the existing tram system until they are revoked or amended by byelaws made under article 44 (power to make byelaws); and

(b) any byelaws then applying to the existing tram system under that section are to apply to the tram system authorised by this Order as if they were made under article 44, until they are revoked or amended by byelaws made under article 44.

Application, modification and exclusion of legislative provisions relating to street works

5.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major transport works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(**15**) (dual carriageways and roundabouts) of the 1980 Act or section 184 (vehicle crossings) of that Act.

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major transport works by virtue of paragraph (1), to be construed as references to the promoter.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

section 56 (directions as to timing);

section 56A (power to give directions as to placing of apparatus);

section 58 (restrictions following substantial road works);

section 58A (restriction on works following substantial street works);

section 73A (power to require undertaker to re-surface street);

section 73B (power to specify timing etc. of re-surfacing);

section 73C (materials, workmanship and standard of re-surfacing);

section 78A (contributions to costs of re-surfacing by undertaker); and

Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) which, together with other provisions of that Act, apply in relation to the execution of street works and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street by the promoter under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(**15**) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).