STATUTORY INSTRUMENTS

# 2017 No. 830

# TRANSPORT AND WORKS, ENGLAND
# TRANSPORT, ENGLAND

## The London Overground (Barking Riverside Extension) Order 2017

*Made - - - - 15th August 2017*

*Coming into force - - 5th September 2017*

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 caused an inquiry to be held for the purposes of the application under 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The Secretary of State, having considered the objections made and not withdrawn, and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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 14th August 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 London Overground (Barking Riverside Extension) Order 2017 and comes into force on 5th September 2017.

(**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 and S.I. 2013/755.

(**2**) 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.

## 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 2004 Act" means the Traffic Management Act 2004(**9**);

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

"the authorised railway" means the railway forming part of the authorised works;

"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 same meaning as in the 1980 Act(**10**);

"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;

"electronic transmission" means a communication transmitted—

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

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

"environmental statement" means the environmental statement certified by the Secretary of State as the environmental statement for the purposes of this Order;

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

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

"the limits of deviation and of land to be acquired or used" means the various limits of deviation for the scheduled works so shown and described on the deposited plans and the limits mentioned in article 5(1)(b) (power to deviate);

"the limits of land to be used only temporarily" means the limits so shown and described on the deposited plans;

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

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(**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**) 2004 c. 18.
(**10**) The definition of "cycle track" (in section 329(1) of the 1980 Act) 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).

"the Order limits" means the limits of deviation and of land to be acquired or used and the limits of land to be used only temporarily;

"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;

"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 of the 1991 Act;

"TfL" means Transport for London whose head office is Windsor House, 42–50 Victoria Street, London SW1H 0TL;

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

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

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows (whether or not the flow is intermittent), except a public sewer or drain.

(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.

(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 plans.

(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, modification and exclusion of legislative provisions relating to street works**

**3.**—(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

(**11**) 1981 c. 67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c. 34). There are other amendments to section 7 which are not relevant to this Order.
(**12**) 1964 c. 40.

(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(**13**) (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 TfL.

(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 of a temporary nature by TfL under the powers conferred by article 10 (temporary stopping up and diversion of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**14**) referred to in paragraph (4) are—

section 54(**15**) (advance notice of certain works) subject to paragraph (6);

section 55(**16**) (notice of starting date of works) subject to paragraph (6);

section 57(**17**) (notice of emergency works);

section 59(**18**) (general duty of street authority to co-ordinate works);

section 60 (general duty of undertakers to co-operate);

section 68 (facilities to be afforded to street authority);

section 69 (works likely to affect other apparatus in the street);

section 76 (liability for cost of temporary traffic regulation);

section 77 (liability for cost of use of alternative route), and

all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were references to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(**13**) 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).
(**14**) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**15**) As also amended by section 49(1) of the Traffic Management Act 2004.
(**16**) As also amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.
(**17**) As also amended by section 52(3) of the Traffic Management Act 2004.
(**18**) As amended by section 42 of the Traffic Management Act 2004.

# PART 2

## WORKS PROVISIONS

*Principal powers*

**Power to construct and maintain works**

**4.**—(1) TfL may construct and maintain the scheduled works.

(2) Subject to article 5 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraph (6), TfL may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works, namely—

(a) works required for the strengthening, improvement, repair or reconstruction of any street;

(b) works for the strengthening, alteration or demolition of any building;

(c) works to erect and construct offices, head houses and other buildings, machinery, apparatus, works and conveniences;

(d) railway electrification and signalling works;

(e) station services and finishes;

(f) means of access, including footpaths;

(g) retaining walls, fencing, barriers, wing walls, shafts, drainage works and culverts;

(h) works to remove or alter the position of any street furniture or apparatus, including mains, sewers, drains, pipes, cables and lights;

(i) works to alter the course of, or otherwise interfere with, watercourses;

(j) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works;

(k) facilities and works for the benefit or protection of land or premises affected by the authorised works;

(l) the felling of trees; and

(m) earthworks required for the carrying out of the authorised works.

(4) Subject to paragraph (6), TfL may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised works.

(5) TfL may remove any works constructed by it under this Order which have been constructed as temporary works or which it no longer requires.

(6) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works—

(a) within the Order limits; or

(b) within the boundaries of any street abutting the Order limits or which has a junction with such a street.

(7) The powers conferred by this article may not be exercised within the boundaries of a street outside of the Order limits without the consent of the street authority but that consent must not be unreasonably withheld.