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STATUTORY INSTRUMENTS

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**2017 No. 257**

**TRANSPORT AND WORKS, ENGLAND**  
**TRANSPORT, ENGLAND**

**The Network Rail (Northumberland Park Level Crossing  
and Coppermill Lane Level Crossing Closure) Order 2017**

*Made - - - - 23rd February 2017*

*Coming into force - - 16th March 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 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 16th February 2017.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1, 2, 4, 7, 8, 11 and 16 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 Network Rail (Northumberland Park Level Crossing and Coppermill Lane Level Crossing Closure) Order 2017 and comes into force on 16th March 2017.

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(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 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 1980 Act” means the Highways Act 1980(4);

“the 1990 Act” means the Town and Country Planning Act 1990(5);

“the 2003 Act” means the Electronic Communications Act 2003(6);

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

“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;

“Coppermill Lane level crossing” means so much of Coppermill Lane in the London Borough of Waltham Forest as is shown between points A and B on sheet 2 of the deposited plans and described in the book of reference;

“the deposited plans” means the work and land plans certified by the Secretary of State as the deposited plans for the purpose 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;

“the existing footpath” means the public right of way over the existing stepped footbridge adjacent to the Northumberland Park level crossing between points C and D on sheet 1 of the deposited plans;

“footpath” has the same meaning as in the 1980 Act;

“highway authority” has the same meaning as in the 1980 Act;

“limits of deviation” means the limits of deviation for the work shown on sheet 1 of the deposited plans;

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

“Network Rail” means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN;

“the new public right of way” means the new footpath (as referred to in article 7 (creation and maintenance of new public right of way) to be provided between points E and F on sheet 1 of the deposited plans;

“Northumberland Park level crossing” means so much of Marsh Lane in the London Borough of Haringey as is shown between points A and B on sheet 1 of the deposited plans and described in the book of reference;

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

“the section” means the section certified by the Secretary of State as the section for the purposes of this Order;

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(3) 1961 c. 33.

(4) 1980 c. 66.

(5) 1990 c. 8.

(6) 2003 c. 21.

(7) 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.

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 151(1) of the 2003 Act;

“street” includes part of a street;

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

“the undertaking” means the railway undertaking of Network Rail as existing from time to time;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the work” means the work specified in article 3 (power to construct and maintain works).

(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 over its surface.

(3) All distances and directions referred to in this Order are approximate.

(4) References in this Order to points identified by letters are construed as references to points so lettered on the deposited plans.

## PART 2

### WORKS PROVISIONS

#### *Principal powers*

#### **Power to construct and maintain works**

**3.**—(1) Network Rail may construct and maintain the work, comprising a footbridge over the West Anglia Main Line railway lines, commencing at a point 56 metres south-east of the junction of Marsh Lane with Park Avenue Road and terminating at a point 75 metres east of that junction.

(2) Subject to article 4 (power to deviate), the work may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the section.

(3) Network Rail 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 work, namely—

- (a) demolition of the existing footbridge over the West Anglia Main Line railway lines within Northumberland Park station;
- (b) electrical equipment and signalling works;
- (c) ramps, means of access and footpaths; and
- (d) works to install or alter the position of apparatus, including mains, sewers, drains and cables.

(4) Network Rail may carry out 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 work, other than works that would interfere with a navigable watercourse.

#### **Power to deviate**

**4.** In constructing or maintaining the work, Network Rail may—

- (a) deviate laterally from the lines or situations shown on sheet 1 of the deposited plans to the extent of the limits of deviation for the work; and
- (b) deviate vertically from the levels shown on the section—
  - (i) to any extent not exceeding 3 metres upwards; or
  - (ii) to any extent downwards as may be found to be necessary or convenient.

### *Crossings*

#### **Closure of Northumberland Park level crossing**

5.—(1) Subject to paragraph (3) the Northumberland Park level crossing and the existing footpath are stopped up and discontinued.

(2) Subject to paragraph (3), upon the stopping up and discontinuance of the Northumberland Park level crossing and the existing footpath any right of way over the Northumberland Park level crossing is extinguished and any public right of way over the existing footpath is extinguished.

(3) Paragraphs (1) and (2) are not to have effect until the new public right of way has been constructed and completed to the reasonable satisfaction of the highway authority in accordance with article 7 (creation and maintenance of new public right of way) and is open for use.

(4) Any person who suffers loss by the extinguishment of any private right of way over the Northumberland Park level crossing under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply so as to extinguish the rights of statutory undertakers to maintain their apparatus.

#### **Closure of Coppermill Lane level crossing**

6.—(1) The Coppermill Lane level crossing is stopped up and discontinued.

(2) Upon the stopping up and discontinuance of the Coppermill Lane level crossing any right of way over the crossing is extinguished.

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

(4) This article does not apply so as to extinguish the rights of statutory undertakers to maintain their apparatus.

(5) On the coming into force of this Order, section 74 of the Northern and Eastern Railway and Eastern Counties Railway Junction Act 1839<sup>(8)</sup> (provision for maintaining communication where railway crosses the Walthamstow and Leyton Marshes) ceases to have effect insofar as it affects the Coppermill Lane level crossing.

#### **Creation and maintenance of new public right of way**

7.—(1) The new public right of way is to be completed to the reasonable satisfaction of the highway authority and is to be maintained by and at the expense of Network Rail for a period of 12 months from its completion and after the expiry of that period by and at the expense of the highway authority.

(2) In any action against Network Rail in respect of loss or damage resulting from any failure by it to maintain the new public right of way, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that Network Rail had taken

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<sup>(8)</sup> 1839 c. lxxviii.