STATUTORY INSTRUMENTS

2016 No. 1035

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Transport for Greater Manchester (Light Rapid Transit System) (Trafford Park Extension) Order 2016

Made - - - -	*3rd November 2016*
Coming into force - -	*24th November 2016*

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The Secretary of State, having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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 25th October 2016.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 5, 7 to 11, 13 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 Transport for Greater Manchester (Light Rapid Transit System) (Trafford Park Extension) Order 2016 and comes into force on 24th November 2016.

(**1**) S.I. 2006/1466, as amended by S.I. 2010/439, 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**);

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

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

"the authorised transit system" means the transit system authorised by this Order;

"the authorised works" means the scheduled works and any other works 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;

"the Borough Council" means Trafford Metropolitan Borough Council;

"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 section 329(1) (further provisions as to interpretation) of the 1980 Act(**9**);

"electric line" has the meaning given by section 64(1) (interpretation etc. of Part 1) of the Electricity Act 1989(**10**);

"electronic transmission" means a communication transmitted—

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

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

"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 land to be acquired or used" means the limits of land to be acquired or used shown on the works and land plans;

"the limits of deviation" means the limits of lateral deviation for the scheduled works mentioned in article 8(1)(a) and (2) (power to deviate);

"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;

(**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**) The definition of "cycle track" 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).
(**10**) 1989 c. 29.

"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 works and land plans, and described in the book of reference;

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

"the sections" means the sections included in the works and land plans;

"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;

"street tramway" means any part of a transit 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 works and land plans, described in the book of reference and specified in columns (1) and (2) of Schedule 6 (land of which temporary possession may be taken);

"the traffic regulation plans" means the plans certified by the Secretary of State as the traffic regulation plans 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 transit system;

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

"transit system" means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

(a) provide support and guidance for vehicles carried on flanged wheels; and

(b) are laid in part along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

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

"the undertaker" means Transport for Greater Manchester established by the South East Lancashire and North East Cheshire Passenger Transport Area (Designation) Order 1969(**12**);

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

"the works and land plans" means the plans and sections certified by the Secretary of State as the works and land plans for the purposes of this Order.

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

(3) In the case of any street in relation to which a pedestrian planning order made under section 249(2) (order extinguishing right to use vehicles on highway) of the 1990 Act is in force, the kerbline of the street, where there is no kerb, is to be taken to be the edge of the part of the street on which the passage of vehicles is permitted.

(4) 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.

(**11**) 1981 c. 67.
(**12**) S.I. 1969/25, amended by S.I. 1973/1727. By virtue of S.I. 2011/908 the passenger transport executive was re-named "Transport for Greater Manchester".

(5) References in this Order to points identified by letters with numbers are to be construed as references to the points so marked on the works and land plans.

(6) All distances, directions, lengths and points 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 Railway Regulation Acts 1840 to 1893(**13**) do not apply in relation to the authorised transit system.

(2) The provisions of the Highways (Railway Crossings) Act 1839(**14**) do not apply in relation to the authorised transit system.

Application of 1991 Act

4.—(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 (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 undertaker.

(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 the undertaker under the powers conferred by article 14 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(**13**) 1840 c. 897, 1842 c. 55, 1868 c. 119, 1873 c. 48 and 1887 c. 57.
(**14**) 1839 c. 45.

(5) The provisions of the 1991 Act(**15**) referred to in paragraph (4) are—

section 54(**16**) (advance notice of certain works), subject to paragraph (6);

section 55(**17**) (notice of starting date of works), subject to paragraph (6);

section 57(**18**) (notice of emergency works);

section 59(**19**) (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 75 (inspection fees);

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

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 a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 16 (maintenance of altered or diverted streets)—

(a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

(b) has effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.

(8) To such extent as is reasonably necessary for protecting the authorised transit system and its operation and use the undertaker has the same powers with regards to reinstatement as a street authority has under section 72 (powers of street authority in relation to reinstatement) of the 1991 Act.

(9) In its application to the authorised transit system, section 93(3) (works affecting level crossings or tramways) of the 1991 Act also permits the undertaker to make reasonable requirements —

(a) for allowing it facilities to monitor the execution of the works; and

(b) for the protection of the authorised transit system.

Disapplication of the Commons Act 2006

5. No land within the limits of land to be acquired or used may be registered in accordance with paragraphs 2 to 4 of Schedule 2 (non-registration or mistaken registration under the 1965 Act) to the Commons Act 2006(**20**).

(**15**) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**16**) As also amended by section 49(1) of the Traffic Management Act 2004.
(**17**) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.
(**18**) As also amended by section 52(3) of the Traffic Management Act 2004.
(**19**) As amended by section 42 of the Traffic Management Act 2004.
(**20**) 2006 c. 26.