STATUTORY INSTRUMENTS

2015 No. 1876

TRANSPORT AND WORKS, ENGLAND TRANSPORT, ENGLAND

The Network Rail (Tinsley Chord) Order 2015

Made - - - -	*25th November 2015*
Coming into force - -	*16th December 2015*

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 17thNovember 2015.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 4, 7 to 12 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 (Tinsley Chord) Order 2015 and comes into force on 16th December 2015.

Interpretation

2.—(1) In this Order—

(**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.

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

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

"the 1988 Act" means the South Yorkshire Light Rail Transit Act 1988(**5**);

"the 1989 Act" means the South Yorkshire Light Rail Transit Act 1989(**6**);

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

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

"authorised tramroad" means the extension of the LRT system authorised by this Order;

"authorised works" means the scheduled work and any other works authorised by this Order;

"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;

"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 Executive" means South Yorkshire Passenger Transport Executive;

"the limits of deviation" means the limits of deviation for the scheduled works shown on the works and land plan;

"the LRT system" means the light rail transit system comprising the railways authorised by the South Yorkshire Light Rail Transit Acts 1988 to 1993 including the railways designated as tramways by those Acts, and all works and conveniences provided in connection with any such railways, as constructed, extended or altered from time to time;

"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 Order limits" means any limits of deviation and any additional limits of land to be acquired or used which are shown on the works and land plan;

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**8**);

"the promoter" means the Executive and Network Rail together or either of them;

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

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

"the Sheffield to Rotherham railway" means the railway between Sheffield and Rotherham;

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

"tramroad" means any part of a tramway which is not laid along a street or in any other place to which the public has access;

(**3**) 1961 c. 33.
(**4**) 1965 c. 56.
(**5**) 1988 c. xxvii.
(**6**) 1989 c. xix.
(**7**) 1990 c. 8.
(**8**) 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.

"tramway" 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 wholly or mainly 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;

"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 works and land plan" means the plan certified by the Secretary of State as the works and land plan 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, on or under land or in the air-space above its surface.

(3) 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.

Incorporation of the Railways Clauses Act in relation to the authorised tramroad

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(**9**) are incorporated in this Order and apply to the authorised tramroad—

section 68 and 69 (accommodation works by company);

section 71 (additional accommodation works by owners);

sections 72 and 73 (supplementary provisions relating to accommodation works);

section 75 (omitting to fasten gates);

section 103(**10**) (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway); and

section 145(**11**) (recovery of penalties).

(2) In those provisions as incorporated in this Order—

"the company" means the promoter;

"goods" includes anything conveyed on the authorised tramroad;

"prescribed", in relation to any such provision, means prescribed by this Order for the purposes of that provision; and

"the special Act" means this Order.

(3) The following enactments do not apply to the authorised tramroad—

the Highway (Railway Crossings) Act 1839(**12**);

in the Railway Regulation Act 1842, section 9(**13**); and

the Regulation of Railways Act 1889(**14**).

(**9**) 1845 c. 20.
(**10**) Section 103 was amended by the Statute Law Revision Act 1892 (c. 19), Part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48).
(**11**) Section 145 was amended by the Statute Law Revision Act 1892 (c. 19) and Part 2 of Schedule 12 to the Transport Act 1962 (c. 46).
(**12**) 1839 c. 45.
(**13**) 1842 c. 55.
(**14**) 1889 c. 57.

Application of the 1988 Act and repeals

4.—(1) Without affecting article 34 (application of general provisions of the 1988 Act and the 1989 Act) and subject to paragraph (2) the authorised tramroad is to be treated as part of the LRT system for the purposes of Part 2 of the 1988 Act and to the extent applicable for the purposes of, and not inconsistent with or varied by, the provisions of this Order, the provisions of Part 2 of the 1988 Act are incorporated into this Order.

(2) Section 9(5)(b) (the minimum distance between passing carriages used on the tramways) of the 1988 Act is repealed.

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

5.—(1) The promoter may construct and maintain the scheduled works.

(2) Subject to article 6 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the works and land plan and in accordance with the levels shown on the sections.

(3) Subject to paragraph (5), the promoter 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 to erect and construct buildings, electrical plant and machinery, apparatus and other works and conveniences as the promoter thinks fit;

(b) works required for, or in connection with, the control of any traffic (including pedestrians) on the authorised works;

(c) works required for the strengthening, alteration or demolition of any structure;

(d) works to alter the position of apparatus, including mains, sewers, drains and cables;

(e) works to alter the course of, or otherwise interfere with, a watercourse other than a navigable watercourse;

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

(g) works for the benefit or protection of premises affected by the scheduled works; and

(h) works to construct and maintain such number of lines of rails, sidings, switches and crossings as may be necessary.

(4) Subject to paragraph (5), the promoter 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 scheduled works, other than works that would interfere with a navigable watercourse.

(5) Paragraphs (3) and (4) only authorise the carrying out or maintenance of works outside the limits of deviation if such works are carried out on land specified in columns (1) and (2) of Schedule 2 for the purpose specified in relation to that land in column (3) of that Schedule.

(6) The promoter may affix to any buildings for the time being constructed on any land for the purposes of the authorised tramroad—

(a) any brackets, cables, wires, insulators and other apparatus required in connection with the construction, operation or maintenance of the authorised tramroad; and

(b) any lamps, cameras, brackets, pipes, electric lines and other apparatus required for the provision of additional or substitute street lighting or closed circuit television in consequence of the construction, operation or maintenance of the authorised tramroad.

Power to deviate

6.—(1) In constructing or maintaining any of the scheduled works, the promoter may—

(a) deviate laterally from the lines or situations shown on the works and land plan to the extent of the limits of deviation for that work; and

(b) deviate vertically from the levels shown on the sections—

(i) to any extent not exceeding 3 metres upwards; or

(ii) to any extent downwards as may be found to be necessary or convenient.

(2) Without limitation on the scope of paragraph (1), in constructing and maintaining the scheduled works the promoter may within the limits of deviation deviate laterally from their points of commencement and termination shown on the works and land plans.

Supplemental powers

Accommodation crossing

7.—(1) The promoter may construct the authorised tramroad so as to carry it on the level across the access track specified in Schedule 5 (accommodation crossing).

(2) The promoter may in the exercise of the powers conferred by this article alter the level of the access track specified in Schedule 5.

Discharge of water

8.—(1) The promoter may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the exercise of the powers conferred by paragraph (1) to connect to or use a public sewer or drain is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(**15**).

(3) The promoter must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The promoter must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The promoter must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(**15**) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).