STATUTORY INSTRUMENTS

2015 No. 780

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Network Rail (Ordsall Chord) Order 2015

Made - - - -	*31st March 2015*
Coming into force - -	*21st April 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, 3 and 5 of the Transport and Works Act 1992(**2**) ("the 1992 Act").

The Secretary of State has 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The Secretary of State, having considered the objections made and not withdrawn, and the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with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 30th March 2015.

The Secretary of State, in exercise of the powers conferred by sections 1, 3 and 5 of, and paragraphs 1 to 5, 7, 8, 10, 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 (Ordsall Chord) Order 2015 and comes into force on 21st April 2015.

(**1**) S.I. 2006/1466.
(**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. 2012/1559

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 1990 Act" means the Town and Country Planning Act 1990(**6**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**7**);

"the 2003 Act" means the Electronic Communications Act 2003(**8**);

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

"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;

"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:

"electronic transmission" means a communication transmitted—

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

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

"footpath" and "footway" have the same meanings as in the 1980 Act;

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

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

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

"Order land" means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

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

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**9**);

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

(**3**) 1961 c. 33.
(**4**) 1965 c. 56.
(**5**) 1980 c. 66.
(**6**) 1990 c. 8.
(**7**) 1991 c. 22.
(**8**) 2003 c. 21.
(**9**) 1981 c. 67.

"the sections" means the sections included within the works plans and certified as the sections by the Secretary of State for the purposes of 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;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

"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 plans" means the plans certified as the works plans by the Secretary of State 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 and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in Network Rail's railway undertaking.

(3) References in this Order to numbered plots are references to plot numbers on the land plans.

(4) All distances, directions and lengths referred to in this Order are approximate and distances between points on a scheduled work are taken to be measured along that work.

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

(6) References in this Order to numbered works are references to the scheduled works as numbered in Schedule 1 (scheduled works).

Incorporation of the Railway Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(**10**) are incorporated in this Order—

section 58(**11**) (company to repair roads used by them), except for the words from "and if any question" to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words "or directed by such justices to be made by the company" and "or, in case of difference, as shall be authorised by two justices";

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

section 77 (presumption that minerals excepted from acquisition of land);

(**10**) 1945 c 20.

(**11**) There are amendments to section 58 that are not relevant to this Order.

sections 78 to 83, 85 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(**12**);

section 103(**13**) (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway), except for the words from "and if any person" to "for every such offence"; and

section 145(**14**) (recovery of penalties).

(2) Section 12 (signals, watchmen etc.) of the Railways Clauses Act 1863(**15**) is incorporated in this Order.

(3) In those provisions, as incorporated in this Order—

"the company" means Network Rail;

"goods" includes any thing conveyed on the railway authorised to be constructed by this Order;

"lease" includes an agreement for a lease;

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

"the railway" means any railway authorised to be constructed by this Order and any other authorised work; and

"the special Act" means this Order.

Application of the 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) of that Act (which defines what highway authority works are major highway works); 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(**16**) (dual carriageways and roundabouts) of the Highways Act 1980 .

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out 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 the temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 12 (temporary stopping up of streets) and the carrying out of works under article 10 (power to execute street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act referred to in paragraph (2) are—

section 59(**17**) (general duty of street authority to co-ordinate works);

(**12**) 1923 c. 20. Section 79A was amended by section 48(1)(c) of the Coal Industry Nationalisation Act 1946 (c. 59). Section 85C was amended by virtue of section 17(2)(a) of the Interpretation Act 1978 (c. 30).
(**13**) As 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).
(**14**) As amended by the Statute Law Revision Act 1892 and Part 2 of Schedule 12 to the Transport Act 1962 (c. 46).
(**15**) 1863 c. 92.
(**16**) 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).
(**17**) As amended by section 42 of the Traffic Management Act 2004 (c.18).

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.

(4) Nothing in article 13 (construction and maintenance of new or altered streets) —

(a) prejudices the operation of section 87 (prospectively maintainable highways) of the 1991 Act; and Network Rail is not, by reason of any duty under that article to maintain a street, to be taken to be a 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.

Application of local railway enactments

5. The following enactments cease to have effect on the transfer under the powers conferred by this Order to Network Rail of any land within the Order limits to which they relate or, if the land is transferred before the date on which the Order comes into force, on the date that the Order comes into force—

(a) The Liverpool and Manchester Railway Act 1829(**18**);

(b) The London and North Western Railway (New Works and Additional Powers) Act 1867(**19**); and

(c) The Manchester Liverpool Road (Castlefield Properties Limited) Light Railway Order 1993(**20**).

Disapplication of legislative provisions

6. The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

(a) section 23 (prohibition on obstacles etc. in watercourses) of the Land Drainage Act 1991(**21**); and

(b) the provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of that Act, which require consent or approval for the carrying out of the works.

PART 2

Principal powers

Power to construct and maintain works

7.—(1) Network Rail may construct and maintain the scheduled works.

(**18**) 1829 (10 Geo. IV.) c. xxxv.
(**19**) 1867 (30 & 31 Vict.) c. cxliv.
(**20**) S.I. 1993/2153.
(**21**) 1991 c. 59.