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STATUTORY INSTRUMENTS

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**2013 No. 1967**

**The Croxley Rail Link Order 2013**

**PART 2**

**WORKS PROVISIONS**

*Supplemental powers*

**Discharge of water**

**13.**—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, maintenance or operation 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<sup>(1)</sup>.

(3) The Council 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 Council 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 Council 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.

(6) The Council must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010<sup>(2)</sup>.

(8) If a person who receives an application for consent or approval fails to notify the Council of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

(9) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and

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(1) 1991 c. 56.

(2) S.I. 2010/675.

- (b) other expressions, excluding watercourses, used both in this article and in the Water Resources Act 1991(3) have the same meaning as in that Act.

### **Power to survey and investigate land**

**14.**—(1) The Council may for the purposes of this Order—

- (a) survey or investigate any land shown within the Order limits;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as the Council thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
- (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Council—

- (a) must, if so required, before or after entering the land produce written evidence of authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in a carriageway or footway without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(5) The Council must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) Nothing in this article overrides the requirement for scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(4).

(7) If either a highway authority or a street authority fails to notify the Council of its decision within 14 days of receiving the application for consent under paragraph (4) that authority is deemed to have granted consent.

### **Temporary interference with waterways**

**15.**—(1) Without limitation on the scope of the powers conferred by article 5 (power to construct and maintain works), and subject to Part 5 (protection for the Canal & River Trust) of Schedule 9 (protective provisions) the Council may in connection with the construction of the authorised works—

- (a) temporarily interfere with the waterway, by constructing or maintaining temporary works at any point within the Order limits as it considers necessary or expedient;

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(3) 1991 c. 57.

(4) 1979 c. 46.

- (b) temporarily moor or anchor barges or other vessels or craft in the waterway, load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised works; and
  - (c) temporarily close any part of the waterway within the Order limits to navigation.
- (2) The power conferred by paragraph (1)(c) must be exercised in a way which secures—
- (a) that no more of the waterway is closed to navigation at any time than is necessary in the circumstances; and
  - (b) that, if complete closure of a part of the waterway to navigation becomes necessary, all reasonable steps are taken to secure that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the waterway.
- (3) Any person who, as a result of the exercise of powers conferred by this article, suffers loss by reason of the interference with any private right of navigation is entitled to compensation to be paid by the Council to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (4) During any period of interference or temporary closure referred to in paragraph (1), all rights of navigation and other rights relating to, and any obligations of the Canal & River Trust to manage, the part of the waterway so interfered with or closed are suspended and unenforceable against the Canal & River Trust.
- (5) In this article “the waterway” means the Grand Union Canal.