
STATUTORY INSTRUMENTS

2013 No. 1967

The Croxley Rail Link Order 2013

PART 2

WORKS PROVISIONS

Principal Powers

Power to construct and maintain works

5.—(1) The Council 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 deposited plans and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraph (5), the Council 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 authorised works, namely—

- (a) railway electrification and signalling works;
- (b) approaches, bridges, ramps, means of access, footpaths, shafts and stagings;
- (c) embankments, aprons, abutments, retaining walls, wing walls, drainage and culverts;
- (d) works to alter the position of apparatus, including mains, sewers, drains and cables; and
- (e) works to alter the course of, or otherwise interfere with, a watercourse other than (except as provided by article 15 (temporary interference with waterways)), a navigable watercourse.

(4) Subject to paragraph (5), the Council 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 authorised 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 (acquisition of certain lands for ancillary works) for the purpose specified in relation to that land in column (3) of that Schedule.

(6) The Council may within the Order limits—

- (a) carry out and maintain landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works (other than works authorised by this paragraph); and
- (b) carry out and maintain works for the benefit or protection of land affected by the authorised works (other than works authorised by this paragraph).

Power to deviate

6. In constructing or maintaining any of the scheduled works, the Council may—

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

Streets

Power to execute street works

7.—(1) The Council may, for the purposes of the authorised works, enter upon any of the streets within the Order limits to the extent necessary and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Stopping up of street

8.—(1) Subject to the provisions of this article, the Council may, in connection with the construction of the authorised works, stop up the street specified in columns (1) and (2) of Schedule 3 (street to be stopped up) to the extent specified, in column (3) of that Schedule.

(2) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street stopped up are extinguished; and
- (b) the Council may appropriate and use for the purposes of the Croyley Rail Link so much of the site of the street as is stopped up.

(3) Any person who suffers loss by the suspension or 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 is subject to paragraph 2 of Schedule 8 (provisions relating to statutory undertakers etc.).

Temporary stopping up of streets

9.—(1) The Council, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the Council may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) The Council must provide reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), the Council may exercise the powers conferred by this article in relation to the streets specified in columns (1) and (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of that Schedule.

(5) The Council must not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(6) Any person who suffers loss by the suspension 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.

Access to works

10. The Council may, for the purposes of the authorised works—

- (a) form and lay out means of access, alter or improve existing means of access, in the locations marked on the deposited plans; and
- (b) form and lay out such other means of access or alter or improve existing means of access, at such locations within the Order limits as the Council reasonably requires for the purposes of the authorised works, as may be approved by the highway authority, but such approval must not be unreasonably withheld.

Construction and maintenance of new or altered streets

11.—(1) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, be maintained by and at the expense of the Council for a period of 12 months from its completion and from the expiry of that period by and at the expense of the street authority.

(2) Paragraph (1) does not apply in relation to the structure of any bridge carrying a street over or under any railway of the Council.

(3) In any action against the Council in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without affecting any other defence or the application of the law relating to contributory negligence) to prove that the Council had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the Council knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the Council could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Council had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which

the action relates unless it is also proved that the Council had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Use of private roads for construction

12.—(1) The Council may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised works.

(2) The Council must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under and in accordance with Part 1 of the 1961 Act.

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(1).

(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(2).

(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—

(1) 1991 c. 56.

(2) S.I. 2010/675.

- (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
- (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—

⁽³⁾ 1991 c. 57.

⁽⁴⁾ 1979 c. 46.

- (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;
 - (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.