
STATUTORY INSTRUMENTS

2005 No. 2786

**The Leicestershire County Council (Ashby
de la Zouch Canal Extension) Order 2005**

PART 3

ACQUISITION AND POSSESSION OF LAND

Acquisition of part of certain properties

21.—(1) This article shall apply instead of section 8(1) of the 1965 Act in any case where—

- (a) a notice to treat is served under the 1965 Act on the owner in respect of a part only (“the notified part”) of any land occupied or managed as a single unit (“the relevant unit of land”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the notified part and stating that he is willing and able to sell the whole of the relevant unit of land.

(3) If no such counter-notice is served within that period, the owner shall be required to sell the notified part.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the notified part shall, unless the undertaker agrees to take the land specified in the counter-notice, be referred to the tribunal.

(5) If on a reference under paragraph (4), the tribunal determine that the notified part can be taken—

- (a) without material detriment to the remainder of the relevant unit of land, and
- (b) where the relevant unit of land comprises a house with a park or garden, without seriously affecting the amenity or convenience of the house,

the owner shall be required to sell the notified part.

(6) If on a reference under paragraph (4), the tribunal determine that only part of the notified part can be taken—

- (a) without material detriment to the remainder of the land; and
- (b) where the land comprises a house with a park or garden, without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on a reference under paragraph (4), the tribunal determine that—

- (a) the notified part cannot be taken without material detriment to the remainder of the relevant unit of land; but
- (b) the material detriment is confined to only a part of the relevant unit of land, being a part specified in the counter-notice but not the notified part,

the notice to treat shall be deemed to be a notice to treat for that part of the relevant unit of land to which the material detriment is confined, in addition to the notified part, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land specified in the counter-notice, or if the tribunal determine that—

- (a) none of the notified part can be taken without material detriment to the remainder of the relevant unit of land or, where the relevant unit of land comprises a house with a park or garden, without seriously affecting the amenity or convenience of the house; and
- (b) the material detriment is not confined to only a part of the notified part,

the notice to treat shall be deemed to be a notice to treat for the whole of the relevant unit of land whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) In any case where, by virtue of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than the notified part, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat, and if it does so shall pay the owner compensation for any expense or other loss occasioned to him by the giving and withdrawal of the notice.

(10) In the case of a dispute under paragraph (9), the amount of compensation shall be determined by the tribunal.

(11) Where the owner is required under this article to sell only part of the relevant unit of land, the undertaker shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

(12) In this article—

“the 1965 Act” means the 1965 Act as applied by article 17 of this Order; and

“owner” includes any lessee.