
STATUTORY INSTRUMENTS

2005 No. 3523

The Cambridgeshire Guided Busway Order 2005

PART 3

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

22.—(1) The undertaker may acquire compulsorily—

- (a) so much of the land shown on the plans within the limits of deviation and of land to be acquired or used and described in the book of reference as may be required for the purposes of the authorised works; and
- (b) so much of the land specified in column (1) of Schedule 2 to this Order (being land shown on the plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (2) of that Schedule,

and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to the busway system.

(2) The undertaker shall not under the powers of the Order acquire compulsorily any interest in the land numbered 64 to 69, 265 to 268, 358 to 362 and 372 to 375 inclusive in the book of reference.

Application of Part I of Compulsory Purchase Act 1965

23.—(1) Part I of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, shall apply to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if—

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted; and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—

- (i) in a case where the notice to treat relates only to the acquisition of subsoil or the acquisition of an easement or other right over the land, a reference to notice of one month, or

- (ii) in any other case, a reference to notice of 3 months.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(2) shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1), the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for sub-section (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in sub-section (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in sub-section (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, sub-sections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in sub-section (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and
- (b) sub-section (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in sub-section (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 23.

Powers to acquire new rights

25.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in sub-paragraph (a) or (b) of article 22 as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 7 to this Order), where the undertaker acquires a right over land under paragraph (1) the undertaker shall not be required to acquire a greater interest in it.

(3) Schedule 7 to this Order shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

(4) In relation to land to which this paragraph applies, article 22, so far as relating to the acquisition or creation of easements or other rights by virtue of paragraph (1), shall be treated as

also authorising acquisition by a statutory utility in any case where the Secretary of State gives his consent in writing.

(5) Paragraph (4) applies to land to which article 22 applies and which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of the work authorised by the Order; and, in that paragraph, “statutory utility” means a licence holder within the meaning of Part I of the Electricity Act 1989⁽³⁾, a public gas transporter within the meaning of Part I of the Gas Act 1986⁽⁴⁾, a water undertaker within the meaning of the Water Industry Act 1991⁽⁵⁾, a sewerage undertaker within the meaning of Part I of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

Powers to acquire subsoil only

26.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (a) or (b) of article 22 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of the subsoil of land under paragraph (1) the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 31 from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Rights under or over streets

27.—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or airspace over, any street shown on the plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and airspace for those purposes or any other purpose connected with or ancillary to its busway system.

(2) The power under paragraph (1) may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street and except in relation to a street which is subject to stopping-up pursuant to article 10, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) Any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(4) Paragraph (2) shall not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in or on a street which forms part of a building fronting on to the street.

(3) 1989 c. 29.

(4) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45).

(5) 1991 c. 56.