

## SCHEDULES

### SCHEDULE 1

Article 2

#### SCHEDULED WORKS

##### **In the Royal Borough of Greenwich**

*Work No. 1* — A railway, comprising a reception siding and headshunt, commencing by a junction with the eastbound Crossrail railway line authorised by Work No. 1/7 in Schedule 1 to the principal Act<sup>(1)</sup> at a point 15 metres north-west of the former level crossing of Churchmanor Way and the North Kent railway, passing westwards and terminating at a point 48 metres west of the bridge carrying the North Kent railway over White Hart Road.

*Work No. 2* — A railway, comprising sidings to provide a stabling and maintenance depot, commencing by a junction with Work No. 1 at a point 222 metres east of the bridge carrying the North Kent railway over White Hart Road, passing north-eastwards and terminating at a point 305 metres north-west of the former level crossing of Churchmanor Way and the North Kent railway.

The work includes an accommodation building and a maintenance building within the depot site.

### SCHEDULE 2

Article 11

#### MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

##### *Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right, as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973<sup>(2)</sup> has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for “land is acquired or taken from” substitute “a right over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable”.

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(1) 2008 c.18.  
(2) 1973 c. 26.

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(3) For section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 substitute—

“(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

- (a) a right over land consisting of a house, building or manufactory can be taken without material detriment or damage to the house, building or manufactory; or
- (b) a right over land consisting of a park or garden belonging to a house can be taken without seriously affecting the amenity or convenience of the house,

the Upper Tribunal must take into account not only the effect of the acquisition of the right but also the use to be made of the right to be acquired, and, in a case where the right to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.”.

#### *Application of the 1965 Act*

**3.—**(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

**4.** For section 7 of the 1965 Act (measure of compensation in case of severance) substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

**5.** For section 8 of the 1965 Act (other provisions as to divided land) substitute—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land, and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

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- (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Crossrail (Plumstead Sidings) Order 2015<sup>(3)</sup> (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section is to be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection affects any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land);

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11(4) (powers of entry) of the 1965 Act is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the equivalent circumstances and subject to the equivalent conditions, to enter for the purpose of exercising that right (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(5) (penalty for unauthorised entry) and 13(6) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(7) (protection for interests of tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

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(3) [S.I. 2015/781](#).

(4) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and [S.I. 2009/1307](#).

(5) Section 12 was amended by section 56(2) of, and part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(6) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(7) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 and [S.I. 2009/1307](#).

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9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

## SCHEDULE 3

Article 12

## LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the works and land plans</i>	<i>(3)</i> <i>Purpose for which rights may be acquired</i>
Royal Borough of Greenwich	Plots 9, 10, 11, 15, 16	Access over private road for construction and afterwards for operation and maintenance.

## SCHEDULE 4

Article 18

## APPLICATION OF PROVISIONS OF THE PRINCIPAL ACT

1. The following provisions of the principal Act apply to the matters which are the subject of this Order on the general assumptions mentioned in paragraph 2 and, where any special assumption is mentioned in paragraph 3 for any such provision, on that special assumption —

- (a) sections 8 (extinguishment of private rights of way), 9 (extinguishment of rights of statutory undertakers etc.), 10 (planning: general), 11 (permitted development: time limit), 12 (fees for planning applications), 13 (power to disapply section 10(1)), 15 (extension of permitted development rights), 20 (control of construction sites: appeals), 30 (duty to co-operate), 31 (arbitration after referral under section 30(3)) and 46 (compensation for water abstraction);
- (b) paragraph 8 (discharge of water) of Schedule 2 (works: further and supplementary provisions);
- (c) paragraphs 4(3) and (4) and 6 to 11 of Part 2 (development in the area of a unitary authority), and paragraphs 26 to 35 and 37 of Part 4 (supplementary) of Schedule 7 (planning conditions);
- (d) Schedule 11 (application of other railway legislation) (except that sections 10, 24, 30 to 41, 43, 44, 46, 49 to 55, 65, 138, 162 and 163 of the Railways Clauses Consolidation Act 1845<sup>(8)</sup> are also excepted from incorporation);
- (e) paragraphs 2, 7, 8, 10, 11, 14 and 16 to 17 of Schedule 14 (disapplication and modification of miscellaneous controls); and
- (f) Parts 2 (protection for electricity, gas, water and sewerage undertakers) and 4 (protection of electronic communications code networks) of Schedule 17 (protective provisions).

<sup>(8)</sup> 1845 c.20.

### *The general assumptions*

2. The general assumptions are that references in the principal Act in whatever form (including references inserted or substituted by any provision of that Act in any other enactment)—
- (a) to that Act are references to this Order;
  - (b) to the nominated undertaker are references to the promoter;
  - (c) to Transport for London are references to the promoter (where the Crossrail (Devolution of Functions) Order 2010<sup>(9)</sup> modified the principal Act);
  - (d) to the scheduled works (except in relation to the limits of deviation for the scheduled works), the deposited plans, the deposited sections and the book of reference are references to the scheduled works, the works and land plans, the sections and the book of reference respectively as defined in article 2(1) (interpretation);
  - (e) to the limits of deviation for the scheduled works or the limits of land to be acquired or used are references to the Order limits as defined in article 2(1);
  - (f) to works authorised by the principal Act are references to the authorised works; and
  - (g) to particular provisions of that Act are a reference to those provisions as applied by paragraph 1.

### *The special assumptions*

3.—(1) The special assumptions are the assumptions set out in sub-paragraphs (2) to (8), and have effect for the purposes mentioned in paragraph 1.

(2) In section 10(4) (planning: general) of the principal Act the reference to statements specified for the purposes of subsection (2)(b) is to be treated as including a reference to the environmental statement submitted with this Order.

(3) The Royal Borough of Greenwich is to be treated as a qualifying authority for the purposes of those provisions of Schedule 7 (planning conditions) to the principal Act that apply to this Order.

(4) Item 6 in the table in paragraph 6 (conditions: qualifying authority) and item 4 in the table in paragraph 7 of Schedule 7 to the principal Act do not apply.

(5) Paragraph 13 of Part 2 of Schedule 17 to the principal Act applies to any dispute arising under that Part as applied by this Order.

(6) In paragraph 3 of Part 4 of Schedule 17 (protective provisions) to the principal Act, references to paragraph 5 of Schedule 3 (highways) to that Act are to be treated as a reference to paragraph (2) of article 5 (access to works).

(7) Paragraph 6 of Part 4 of Schedule 17 applies to any dispute arising under that Part as applied by this Order.

### *Ancillary matters*

4.—(1) Regulations made under section 20(4) (control of construction sites: appeals) of the principal Act have effect in relation to appeals referred to arbitration under subsection (7A) of section 60 or 61 of the Control of Pollution Act 1974<sup>(10)</sup>, as inserted by section 20(3) of the principal Act and applied by paragraph 1, as they have effect for appeals referred to arbitration under that subsection in relation to works carried out in exercise of the powers conferred by Part 1 of the principal Act.

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<sup>(9)</sup> S.I. 2010/988.

<sup>(10)</sup> 1974 c. 40.

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(2) Rules made under section 54(5) (arbitration) of the principal Act apply to an arbitration under this Order as they apply to an arbitration under Part 1 of the principal Act.

(3) Without limitation on the scope of the general assumptions in paragraph 2, the references in section 8(2) (extinguishment of private rights of way) of the principal Act to the coming into force of that Act are to be treated (so far as concerns the matters which are the subject of this Order) as references to the coming into force of this Order.

(4) Regulations made under paragraphs 30 and 34 (appeals) of Schedule 7 (planning conditions) to the principal Act have effect in relation to planning appeals under this Order as they apply to appeals under Schedule 7 to the principal Act.

(5) Regulations made under section 12(1) (fees for planning applications) of the principal Act have effect in relation to this Order as they apply to requests for approval under the planning permission deemed to be granted by section 10(1) (planning: general) of the principal Act.