
STATUTORY INSTRUMENTS

2022 No. 1194

The Portishead Branch Line (MetroWest Phase 1) Order 2022

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Portishead Branch Line (MetroWest Phase 1) Order 2022 and comes into force on 5th December 2022.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961⁽¹⁾;

“the 1965 Act” means the Compulsory Purchase Act 1965⁽²⁾;

“the 1980 Act” means the Highways Act 1980⁽³⁾;

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981⁽⁴⁾;

“the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁵⁾;

“the 1990 Act” means the Town and Country Planning Act 1990⁽⁶⁾;

“the 1991 Act” means the New Roads and Street Works Act 1991⁽⁷⁾;

“the 2003 Act” means the Communications Act 2003⁽⁸⁾;

“the 2008 Act” means the Planning Act 2008;

“the 2017 Act” means the Neighbourhood Planning Act 2017⁽⁹⁾;

“address” includes any number or address used for the purposes of electronic transmission;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“authorised railway works” means those parts of the authorised development that are on land that is or will become operational railway land;

“Avon Gorge Woodlands SAC” means the Avon Gorge Woodlands Special Area of Conservation (EU Code UK0012734);

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 1980 c. 66.
(4) 1981 c. 66.
(5) 1984 c. 27.
(6) 1990 c. 8.
(7) 1991 c. 22.
(8) 2003 c. 21.
(9) 2017 c. 20.

“Avon Gorge Vegetation Management Plan” means the management plan for the management of the construction of the authorised development within the Avon Gorge Woodlands SAC agreed by Network Rail and the undertaker in consultation with Natural England and certified as such by the Secretary of State;

“book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“COCP” means the document certified as the code of construction practice by the Secretary of State for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, archaeological investigations, receipt and erection of construction plant and equipment, utility diversions, laying out of compounds, works to clear watercourses, erection of any temporary means of enclosure, erection of protective fencing, the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“compounds, haul roads and access to works plan” means the document certified by the Secretary of State as the compounds, haul roads and access to works plan for the purposes of this Order;

“crossings to be extinguished plans” means the plans certified as the crossings to be extinguished plans by the Secretary of State for the purposes of this Order;

“CTMP” means the document certified as the construction traffic management plan by the Secretary of State for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act⁽¹⁰⁾;

“design drawings” means the drawings described as such in Schedule 17 (documents to be certified) and certified as the design drawings by the Secretary of State for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means provided it is in electronic form,

and in this definition “electronic communications network” has the same meaning as in section 32(1)⁽¹¹⁾ (meaning of electronic communications and networks and services) of the 2003 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“first open for use” means—

- (a) in respect of railway related activities, the date on which Work Nos. 1, 1A and 1B are first used for revenue earning purposes by the passage of passenger carrying railway vehicles; and

⁽¹⁰⁾ The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

⁽¹¹⁾ Section 32(1) was amended by S.I. 2011/1210.

(b) in respect of highway related activities, the date on which the new highway is first available for the public to pass and repass;

“footpath” has the same meaning as in the 1980 Act;

“hedgerow location plan” means the plan certified as the hedgerow location plan by the Secretary of State for the purposes of this Order;

“highway” has the same meaning as in the 1980 Act;

“IDB” means the North Somerset Levels Internal Drainage Board;

“important hedgerow plan” means the plan certified as the important hedgerow plan by the Secretary of State for the purposes of this Order;

“land plan” means the plans certified as the land plan by the Secretary of State for the purposes of this Order;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, remove, reconstruct, replace or improve in relation to the authorised development and any derivative of “maintain” is to be construed accordingly;

“Master CEMP” means the document certified as the master construction environmental management plan by the Secretary of State for the purposes of this Order;

“National Highways” means National Highways Limited, company number 9346363, and includes any successor in function authorised to operate the strategic highway network in the area in which the authorised development is located;

“Network Rail” means Network Rail Infrastructure Limited, company registration number 02904587 whose registered office is at 1 Eversholt Street, London, NW1 2DN, and includes any successor in function to Network Rail authorised to operate that part of the national rail network that the authorised development is or will be included in;

“new highways plans” means the plans certified as the new highways plans by the Secretary of State for the purpose of this Order;

“operational railway land” means—

- (a) land required permanently for the construction and operation of Work Nos. 1, 1A and 1B;
- (b) any part of the existing railway corridor owned by Network Rail between Ashton Junction and Portbury Junction; and
- (c) land forming permanent maintenance compounds held by Network Rail for the maintenance of the railways referred to in sub-paragraphs (a) and (b),

and includes associated works, structures, embankments, cuttings, stations, bridges and culverts;

“Order land” means the land shown on the land plan which is within the limits of land to be acquired or used and described in the book of reference;

“Order limits” means the Order limits shown on the works plans;

“owner” in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(12);

“permanent and temporary stopping up and diversion plan” means the plan certified as the permanent and temporary stopping up and diversion plan by the Secretary of State for the purposes of this Order;

“permanent traffic regulation order plans” means the documents certified as the permanent traffic regulation order plans by the Secretary of State for the purposes of this Order;

(12) 1981 c. 67. The definition of “owner” was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

“Portishead Railway Acts” means the Bristol and Portishead Pier and Railway Act 1863⁽¹³⁾ and the Bristol and Portishead Pier and Railway Act 1866⁽¹⁴⁾;

“private means of access” means a private access to the highway network from neighbouring land;

“relevant highway authority” means North Somerset District Council for highways within the administrative area of North Somerset District Council and Bristol City Council for highways within the administrative area of Bristol City Council or any successor highway authority to those authorities;

“relevant lead local flood authority” means North Somerset District Council for land within the administrative area of North Somerset District Council and Bristol City Council for land within the administrative area of Bristol City Council as lead local flood authority and any successor flood authority to these authorities;

“relevant planning authority” for land within the administrative area of North Somerset District Council means North Somerset District Council or for land within the administrative area of Bristol City Council means Bristol City Council or any successor planning authority to those authorities;

“section drawings” means the drawings certified as the section drawings by the Secretary of State for the purposes of this Order;

“statutory undertaker” has the same meaning as in section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority” in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic authority” has the same meaning as in section 121A⁽¹⁵⁾ (traffic authorities) of the 1984 Act;

“tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means—

- (a) North Somerset District Council; and
- (b) subject to articles 9 (benefit of Order), 10 (consent to transfer benefit of Order) and 11 (agreements with Network Rail) any other person who has the benefit of this Order in accordance with section 156 (benefit of order granting development consent) of the 2008 Act for such time as that section applies to that person;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, rhyes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) References in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

⁽¹³⁾ 26 & 27 Vict. c. cvii.

⁽¹⁴⁾ 29 & 30 Vict. c. lxxxviii.

⁽¹⁵⁾ Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act.

(4) All distances, directions, lengths and areas referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(5) References in this Order to points identified by letters, with or without numbers, are to be construed as references to points so lettered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

Incorporation of the Railway Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(**16**) are incorporated in this Order—

- (a) section 46 (crossing of roads – level crossings), subject to paragraph (4);
- (b) section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
- (c) section 61 (company to make sufficient approaches and fences to highways crossing on the level);
- (d) section 68 (accommodation works by company);
- (e) section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;
- (f) sections 72 and 73 (supplementary provisions relating to accommodation works);
- (g) section 77 (presumption that minerals excepted from acquisition of land);
- (h) sections 78 to 83, 85 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(**17**); and
- (i) section 105 (carriage of dangerous goods on railway), except for the words from “and if any person” to “for every such offence”.

(2) The following provisions of the Railways Clauses Act 1863(**18**) are incorporated in this Order—

- (a) sections 5 and 7 (level crossings); and
- (b) section 12 (signals, watchmen etc.).

(3) In those provisions, as incorporated in this Order—

“the company” means the undertaker and, for land that is within that part of the Order limits which is either existing operational railway or which will become operational railway, Network Rail;

“goods” includes anything conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed” in relation to any such provision means prescribed by this Order for the purposes of that provision;

(16) 1845 c. 20. Section 46 was amended by section 109(1) and (3) of, and paragraph 22 of Schedule 8, and Schedule 10 to, the Courts Act 2003 (c. 39). Section 58 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101). Section 78 was amended by section 39(3) of, and Schedule 7 to, the Compulsory Purchase Act 1965 (c. 56) and S.I. 2009/1307. Section 105 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949, section 31(6) of the Criminal Law Act 1977 (c. 45) and sections 37 and 49 of the Criminal Justice Act 1982 (c. 48).

(17) 1923 c. 20. Section 15 was amended by section 10(1) of the Decimal Currency Act 1969 (c. 19).

(18) 1863 c. 92.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“the railway” means any railway authorised to be constructed by this Order and any other authorised development; and

“the special Act” means this Order.

(4) In section 46 of the Railways Clauses Consolidation Act 1845, as incorporated in this Order, for the proviso there is substituted “provided always that, with the consent of the relevant highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level”.