



The Green, Aberdeen (Boots The Chemists Limited) Order Confirmation Act 1974

CHAPTER xxxi

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ELIZABETH II



1974 CHAPTER xxxi

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
The Green, Aberdeen (Boots The Chemists Limited).
[12th December 1974]

WHEREAS the Provisional Order set forth in the schedule
hereunto annexed has been made by the Secretary of
State under the provisions of the Private Legislation
Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52.
Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty,
by and with the advice and consent of the Lords Spiritual and
Temporal, and Commons, in this present Parliament assembled,
and by the authority of the same, as follows:—

1. The Provisional Order contained in the schedule hereunto
annexed is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as The Green, Aberdeen (Boots The
Chemists Limited) Order Confirmation Act 1974. Short title.

SCHEDULE

THE GREEN, ABERDEEN (BOOTS THE CHEMISTS LIMITED)

Provisional Order to authorise Boots The Chemists Limited to construct buildings or structures bridging over The Green and Rennie's Wynd in the city and royal burgh of Aberdeen; and for other purposes.

Whereas Boots The Chemists Limited (hereinafter referred to as "the Company") carries on business in the United Kingdom in the retail sale of pharmaceutical and other products and is a wholly-owned subsidiary of The Boots Company Limited:

And whereas both of the said companies are companies within the meaning of the Companies Acts 1948 to 1967 and are companies limited by shares:

And whereas amongst shop premises held by the Company are those known as 131½/141 Union Street in the city and royal burgh of Aberdeen (hereinafter referred to as "the city") at which the Company has carried on business over many years; and those premises abut at the rear upon the highway known as The Green in the city:

And whereas the buildings comprised in the said premises are of considerable age and unsuited to modern requirements:

And whereas it is expedient that the said buildings should be re-developed and that for the utilisation of the site thereof to the best advantage the redevelopment should incorporate buildings or structures bridging over the highways known as The Green and Rennie's Wynd and should also extend onto lands forming part of the highway known as Back Wynd Stairs in the said city:

And whereas it is accordingly expedient that the Company should be authorised to construct such buildings or structures as in this Order provided and that the other provisions of this Order should be enacted:

And whereas a plan and section showing the line and levels of the work authorised by this Order, such plan showing also the lands which may be used under the powers of this Order and for the purposes of this Order, together with a book of reference to the said plan containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same, have been deposited with the sheriff clerk of the counties of Kincardine, Aberdeen and Banff and the sheriff clerk of the sheriff court district of Aberdeen and such plan, section and book of reference are respectively referred to in this Order as the deposited plan, section and book of reference:

And whereas the purposes of this Order cannot be effected without an order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now, therefore, in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

1. This Order may be cited as The Green, Aberdeen (Boots The Short title. Chemists Limited) Order 1974.

2.—(1) In this Order the following words and expressions have the several meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to such construction, that is to say:—

“ the work ” means the work described in section 3 (Power to make work) of this Order and includes the same as renewed or altered under subsection (2) of the said section 3 and any works constructed under section 4 (Subsidiary works) of this Order;

“ the city ” means the city and royal burgh of Aberdeen;

“ the Company ” means Boots The Chemists Limited;

“ the corporation ” means the lord provost, magistrates and town council of the city;

“ The Green ”, “ Rennie’s Wynd ” and “ Back Wynd Stairs ” mean respectively the highways of those names in the city.

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Order.

3.—(1) Notwithstanding anything in any other enactment or rule of law, or any interest or other right of the public or the inhabitants at large in, on or over The Green or Rennie’s Wynd, but subject to the provisions of this Order, the Company, when pursuant to section 7 (Acquisition of rights in or over certain highways) of this Order it has acquired from the corporation such rights and interests as they may have in, and in the air space above, The Green and Rennie’s Wynd, may make in the line and situation and upon the lands delineated on the deposited plan and described in the deposited book of reference and according to the level shown on the deposited section the work hereinafter described, that is to say:—

A building or structure above the level of The Green and Rennie’s Wynd and supported by foundations and columns, commencing at a point in the centre of the carriageway of The Green adjacent to the east side of the existing building or structure which lies above the level of that carriageway and forms part of the premises known as 143/149 Union Street in the city and terminating at a point in the centre of the said carriageway 73 feet or thereabouts in an east-north-easterly direction measured from the point of commencement:

Provided that nothing in this subsection shall authorise the Company to construct any such column so that any part thereof lies in the carriageway forming part of any public street nor to construct any of the foundations so that any part thereof is at a depth of less than five feet below the surface of the carriageway.

(2) Subject to the provisions of this Order the Company may from time to time within the limits of deviation maintain and renew the work or any part thereof and may make minor alterations and additions thereto.

Subsidiary works.

4.—(1) Subject to the provisions of this Order, the Company for the purposes of or in connection with the work may—

- (a) construct, execute, place and keep all such minor subsidiary works and conveniences as they may find necessary or expedient for or in connection with the construction, maintenance or renewal of the work or the making of minor alterations thereto;
- (b) temporarily or permanently alter, open up or otherwise interfere with The Green or Rennie's Wynd or use, strengthen, widen, divert, improve, alter or otherwise interfere with drains, sewers, telegraphic, telephonic, electric, gas, water and other pipes, lines, wires, works and apparatus (all of which are hereinafter in this section referred to as "apparatus") in The Green or Rennie's Wynd providing where possible a proper substitute before interrupting the passage of sewage, electricity, gas or water in or through any apparatus:

Provided that nothing in this section shall authorise the Company to interfere with the surface of The Green or Rennie's Wynd otherwise than for or in connection with the construction, maintenance or renewal of the supporting foundations and columns comprised in the work.

(2) In the exercise of the powers conferred by paragraph (b) of subsection (1) of this section the Company shall cause as little detriment and inconvenience as the circumstances permit to the appropriate authority and shall make reasonable compensation for any damage caused to any such authority by the exercise of such powers.

(3) (a) Not less than forty-two days before executing any works under paragraph (b) of subsection (1) of this section affecting any apparatus the Company shall submit to the appropriate authority sufficient plans, sections and particulars of the proposed works for their approval which shall not be unreasonably withheld.

(b) The Company shall execute such works in accordance with such plans, sections and particulars as may be submitted to and approved by the appropriate authority or, if such approval be refused, as may be settled by arbitration and all such works shall be executed to the reasonable satisfaction of the appropriate authority and the Company shall at all times afford to the representative of the appropriate authority access for the purpose of inspecting such works.

(c) If any difference shall arise between the Company and the appropriate authority with respect to any of the matters referred to in this subsection such difference shall be referred to and determined by an arbiter to be agreed on or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either the Company or the appropriate authority; provided always that the award or decision of such arbiter shall not relieve the Company of their liability to make compensation to the appropriate authority for

loss or damage and to relieve them from claims as provided in subsection (2) of this section. If any question of law shall arise in the course of such arbitration the arbiter shall have power at the request of either party to state a case for the opinion of the Court of Session and the court shall determine such question.

(d) In this subsection "the appropriate authority" means in relation to any apparatus the authority to whom it belongs or by whom it is repairable.

(4) Notwithstanding anything in this section the Company shall not—

(i) use any telegraphic line belonging to or used by the Post Office; or

(ii) alter any such line except in accordance with and subject to the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878.

1878 c. 76.

(5) In this Order "alter" and "telegraphic line" have the same meanings as in the Telegraph Act 1878.

5. In the construction of the work the Company may deviate laterally from the line or situation thereof shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and may deviate vertically from the levels shown on the deposited section to any extent upwards or downwards: Power to deviate.

Provided that no part of the work (other than the supporting foundations and columns comprised in the work) shall be constructed at a height above the surface of the carriageway of either The Green or Rennie's Wynd less than 16 feet 6 inches or such greater height as the corporation may reasonably require.

6.—(1) The Company during and for the purposes of the construction, maintenance, renewal, enlargement or alteration of the work pursuant to section 3 (Power to make work) of this Order may temporarily stop up, divert or otherwise interfere with any highway and may for any reasonable time divert the traffic therefrom and prevent all persons from passing along and using the same. Temporary stoppage of highways.

(2) The Company shall not exercise the powers of this section—

(a) without the consent of the highway authority, but such consent shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld shall be determined by the Secretary of State;

(b) so as to deprive foot-passengers bona fide going to or from any building or land abutting on a highway of reasonable access to the building or land.

(3) The exercise of the powers conferred by this section in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to place, maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that highway for any of those purposes.

Acquisition of rights in or over certain highways.

7.—(1) Notwithstanding anything in any other enactment or rule of law, the Company and the corporation may enter into and carry into effect agreements for the acquisition by the Company from the corporation of such rights and interests as the corporation may have in, and in the air space above—

(a) The Green and Rennie's Wynd, being rights and interests appearing requisite for the construction, maintenance, renewal or alteration of the work;

(b) the lands in the city (being a part of Back Wynd Stairs) numbered on the deposited plan 2 and thereon coloured red;

and for the purposes of this Order and of any such agreement as aforesaid those rights and interests shall, as from the passing of the Act confirming this Order, be deemed to be free from any beneficial interest or other right of the public or the inhabitants at large.

(2) Any private rights of way which may exist over the lands mentioned in paragraph (b) of subsection (1) of this section shall as from the date of the acquisition of those lands by the Company from the corporation be extinguished:

Provided that the Company shall make compensation to all parties interested in respect of any such rights and such compensation shall be settled, failing agreement, in the manner provided by the Land Compensation (Scotland) Act 1963 for settling disputed compensation upon the acquisition of lands.

1963 c. 51.

General saving for corporation, etc.

8. Nothing in this Order shall prejudice, take away, diminish, alter or abridge—

(1) any statutory or other rights, powers, privileges, jurisdictions or authorities acquired by, vested in or enjoyed by the corporation; or

(2) any rights, powers, privileges or jurisdictions vested in or enjoyed by the City of Aberdeen Buildings Authority under the Building (Scotland) Acts 1959 and 1970 and any regulations made thereunder;

and all such rights, powers, privileges, jurisdictions and authorities shall continue to be held, exercised and enjoyed by the corporation or the said buildings authority, as the case may be, as if the Act confirming this Order had not been passed:

Provided that this section shall not apply to the powers and jurisdictions of the corporation vested in and enjoyed by them under section 59 of the Aberdeen Corporation (Streets, buildings, sewers &c.) Order 1936 in so far as those powers and jurisdictions would, apart from this proviso, have been exercisable in relation to the construction, maintenance and renewal of the work.

Saving for Town and Country Planning Acts. 1972 c. 52.

9.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of Parliament held during the regnal years 10 & 11 Geo. 6 for authorisation or regulation

of development of the land) shall apply to this Order as if it had been passed during that session; and accordingly the Town and Country Planning (Scotland) Act 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Order. 1972 c. 52.

(2) In their application to development authorised by this Order, article 3 of, and Class XI in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1950 (which permit development authorised by any local or private Act or by any Order approved by both Houses of Parliament, being an Act or Order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Order were limited to development begun within five years after the passing of the Act confirming this Order.

(3) In this section the reference to article 3 of and Class XI in Schedule 1 to the Town and Country Planning (General Development) (Scotland) Order 1950 includes a reference to corresponding provisions of any general order superseding that Order made under section 21 of the Town and Country Planning (Scotland) Act 1972 or any corresponding provision of an Act repealing that section.

10. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Company. Costs of Order.

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