

ELIZABETH II



1977 CHAPTER xiii

An Act to empower the Shrewsbury and Atcham Borough Council to construct a footbridge over the river Severn; and for other purposes. [22nd July 1977]

WHEREAS—

(1) The borough of Shrewsbury and Atcham (hereinafter referred to as “the borough”) is under the management and local government of the Shrewsbury and Atcham Borough Council (hereinafter referred to as “the Council”):

(2) It is expedient to empower the Council to construct a footbridge in the borough over the river Severn:

(3) It is expedient that the other provisions contained in this Act should be enacted:

(4) The objects of this Act cannot be attained without the authority of Parliament:

(5) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 1972 c. 70. have been observed:

(6) A plan and section showing the lines and levels of the work by this Act authorised and the lands which may be taken for the purposes or under the powers of this Act, and a book of reference to the said plan containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands and describing the same, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the proper officer of the county council of Salop, and such plan, section and book of reference are respectively referred to in this Act as the deposited plan, section and book of reference:

May it therefore please Your Majesty that it may be enacted, and be it 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, that is to say:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Shrewsbury and Atcham Borough Council (Frankwell Footbridge) Act 1977.

Interpretation.

2.—(1) In this Act unless the subject or context otherwise requires—

1965 c. 56.

“the Act of 1965” means the Compulsory Purchase Act 1965;

“the borough” means the borough of Shrewsbury and Atcham;

“the bridge” means the work authorised by section 10 (Power to construct footbridge) of this Act and includes the footpath thereon and all works incidental thereto and also includes the bridge as improved, renewed or replaced under subsection (2) of that section;

“the Council” means the Shrewsbury and Atcham Borough Council;

“land” includes land covered by water, any interest in land and any easement or right in, to or over land;

“the limits of deviation” means the limits of deviation authorised by section 11 (Power to deviate) of this Act;

“ the river ” means the river Severn;

“ the tribunal ” means the Lands Tribunal;

“ the water authority ” means the Severn-Trent Water Authority.

PART I
—cont.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority, be construed as a reference to an officer appointed for that purpose by that authority.

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

3.—(1) Part I of the Act of 1965 (except section 4, subsection (5) of section 24, section 27 and sub-paragraph (3) of paragraph 3 of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 applies and as if this Act were a compulsory purchase order under the said Act of 1946. Application and incorporation of Acts.
1946 c. 49.

(2) In subsection (1) of section 11 of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) as so applied, for the words “ fourteen days ” there shall be substituted the words “ three months ”.

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act. 1845 c. 18.

(4) Sections 16, 30 to 44 and 78 to 85 of the Railways Clauses Consolidation Act 1845, so far as the same are applicable for the purposes of and are not varied by or inconsistent with this Act, are hereby incorporated with and form part of this Act, subject to the following modifications that is to say:— 1845 c. 20.

(a) the expression “ the company ” shall be construed to mean the Council;

(b) the expression “ the railway ” shall be construed to mean the bridge; and

(c) the expression “ the centre of the railway ” shall be construed to mean any part of the bridge.

PART II

LANDS

Power to
acquire lands.

4.—(1) Subject to the provisions of this Act, the Council may enter upon, take and use such of the lands in the borough delineated on the deposited plan and described in the deposited book of reference as they may require for the purposes of the bridge.

(2) (a) The powers for the compulsory acquisition of land under this section shall not be exercised after 31st December 1980.

(b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if, on or before 31st December 1980, notice to treat has been served in respect of that land.

Correction of
errors in
deposited
plan and
book of
reference.

5.—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Council, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the borough for the correction thereof.

(2) If on such application it appears to the justices that the misstatement or wrong description arose from mistake or inadvertence, they shall certify accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, with the proper officer of the county council of Salop and with the proper officer of the Council, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Council to take the land and execute the work in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Disregard of
recent
improvements
and interests.

6. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the

time of the erection, execution or making of the building, works, improvement or alteration, directly or indirectly concerned, if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works, or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

7.—(1) The Council may, instead of acquiring any land that they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of constructing, using, maintaining, improving, renewing, or replacing the bridge or for the purpose of obtaining access to the bridge or to the lands that they may acquire under this Act or for the purpose of doing any other thing necessary in connection with the bridge or lands.

Power to
acquire
easements
only.

(2) Accordingly the Council may give notice to treat in respect of any such easement or right describing the nature thereof; and “land” in the Act of 1965 as applied by this Act includes such easements and rights as aforesaid.

(3) Where the Council have acquired an easement or right only over or in any land under this section—

(a) they shall not be required or, except by agreement or during the execution of the said works, entitled to fence off or sever that land from the adjoining land;

(b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Council to acquire the land, the Council shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Council may acquire the land compulsorily notwithstanding that the period mentioned in subsection (2) of section 4 (Power to acquire lands) of this Act has expired, but not later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

PART II
—cont.

Grant of easements by persons under disability.

8.—(1) Any person empowered by the Act of 1965 as applied by this Act to sell and convey or release land may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the Council any easement or right required for the purposes of this Act over or in that land.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges, so far as they are applicable, shall apply to any such grant and to any such easement or right as aforesaid.

Extinction of rights affecting land.

9.—(1) All rights over or in any land within the limits of deviation which may be acquired or appropriated by the Council for the purposes of this Act shall, as from the acquisition or appropriation of the land, be extinguished:

Provided that this section shall not affect—

- (a) any rights over Smithfield Road in the borough;
- (b) any public right of way along the public footpath numbered 33 on the map of the borough prepared under section 32 of the National Parks and Access to the Countryside Act 1949; and
- (c) any statutory rights of the water authority.

(2) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Council compensation to be determined in case of dispute by the tribunal.

PART III

WORKS

Power to construct footbridge.

10.—(1) Subject to the provisions of this Act, the Council may in the borough make and maintain 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 levels shown on the deposited section the following work together with all necessary and proper works and conveniences connected therewith or incidental thereto, that is to say:—

- a footbridge over the river and also over the highway known as Smithfield Road with embanked or other footpath approaches and stairs thereto, commencing on the north side of the river in the car park at Frankwell at National Grid reference point SJ 49065 12860 and terminating on the south side of the river adjacent to Smithfield Road at National Grid reference point SJ 49116 12776.

(2) Subject to the provisions of this Act, the Council may improve, renew or replace the bridge at any time and from time to time as occasion may require.

(3) Section 151 of the Highways Act 1959 and section 29 of 1959 c. 25, the Land Drainage Act 1976 shall not apply to the construction of the bridge.

11. The Council, in constructing the bridge, may deviate from the lines thereof shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan, and may deviate from the levels shown on the deposited section to any extent not exceeding 2 metres upwards or 0.15 metres downwards.

12.—(1) Subject to the provisions of this Act the Council may from time to time erect, construct and maintain whether temporarily or permanently all such works and conveniences as may be requisite or expedient for the purposes of or in connection with the construction, maintenance, improvement, renewal, replacement and use of the bridge:

Provided that—

- (a) the Council shall ensure that so far as is reasonably practicable any such works shall not narrow or obstruct the navigable waterway of the river or otherwise interfere with or impede navigation or obstruct the flow of water or the passage of fish;
- (b) no such works or conveniences shall if permanent be erected or constructed outside the limits of deviation.

(2) On the completion of the bridge or, as the case may be, any permanent works or conveniences under subsection (1) of this section the Council shall remove all temporary works placed by them in relation thereto under the powers of this section.

13. Notwithstanding anything contained in the Public Utilities Street Works Act 1950, or in any other enactment, no person shall be entitled to enter upon, break up or interfere with the bridge for the purpose of laying down any main, pipe or wire, or executing any work therein, thereon or thereunder except with the consent of the Council and in accordance with such terms and conditions as the Council may determine.

PART III
—cont.

For
protection of
water
authority.

14. For the protection of the water authority the following provisions shall, unless otherwise agreed in writing between the Council and the water authority, apply and have effect:—

(1) In this section unless the context otherwise requires—

1845 c. 20.

“ authorised work ” means so much of the bridge and of any work authorised under section 16 of the Railways Clauses Consolidation Act 1845 as incorporated by section 3 (Application and incorporation of Acts) of this Act and under section 12 (Power to make subsidiary works) of this Act as is constructed, erected or executed (as the case may require) in, over, under or across the river or its banks and the flood plain thereof;

1976 c. 70.

“ banks ” has the meaning assigned to that expression by section 116 of the Land Drainage Act 1976;

“ construction ” includes improvement, renewal and replacement and, in relation to temporary works, also includes removal and “ construct ” and “ constructed ” have corresponding meanings;

“ flood plain ” means land adjacent to the normal channel of the river over which flood water may flow and includes all land below a level of 52.9 metres above ordnance datum Newlyn:

(2) (a) The Council shall not construct any authorised work except in accordance with plans, sections, particulars and methods of working to be previously submitted to the water authority for their reasonable approval and the Council shall not commence any such work until the plans, sections, particulars and methods of working relating thereto have been so submitted and approved or settled:

Provided that—

(i) if in the case of permanent works the water authority do not within two months after the receipt of such plans, sections, particulars and methods of working and in the case of temporary works within twenty-eight days after such receipt intimate in writing to the Council their disapproval thereof or make any objections or requirements with respect thereto they shall be deemed to have approved thereof;

(ii) no fee or charge shall be payable by the Council in respect of any approval granted by the water

authority under this paragraph or in respect of inspection by the water authority of the construction of any authorised work;

PART III
—cont.

- (b) The prior approval of the water authority shall not be required in the case of temporary works constructed in an emergency but in such a case the Council shall as soon as reasonably practicable give notice of the construction of such works to the water authority and shall comply with any reasonable requirements of the water authority in relation to the construction of such works and their removal:
- (3) (a) Any such work as is referred to in paragraph (2) of this section shall be constructed by the Council to the reasonable satisfaction of the water authority and when commenced shall be completed with all reasonable dispatch;
- (b) The Council shall at all reasonable times afford reasonable facilities to the water authority and to any person authorised by them for access to any such work during the construction thereof and shall also supply to the water authority all information which they may reasonably require with regard to such work or the method of working thereof;
- (c) During the construction of any authorised work the Council shall comply with any reasonable requirements of the water authority, or any person authorised by them, in relation to the prevention of pollution of the river or the avoidance of flooding:
- (4) The Council shall remove any debris or other material which owing to the obstruction caused by any part of the authorised work has accumulated against any such part in such a way or to such an extent as to interfere with the free flow of water in the river or the passage of fish:
- (5) Notwithstanding the approval by the water authority of plans, sections and particulars or of any work or the inspection by or the completion to the satisfaction of the water authority of any work the Council shall be responsible for and shall make good to the water authority all expenses which the water authority may reasonably incur and indemnify the water authority against all claims which may be made against them by reason or in consequence of the construction, user, repair, maintenance or failure of any authorised work or failure

PART III
—cont.

to repair or maintain the same unless due to the negligence of the water authority or of any person in their employ or of their contractors:

Provided that the water authority shall give to the Council reasonable notice of any claim as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Council:

- (6) Any difference which may arise under this section between the Council and the water authority (other than a difference as to the meaning or construction of this section) shall be referred to and settled or determined by an arbitrator to be appointed by agreement between the parties or in default of agreement by the President of the Institution of Civil Engineers on the application of either party after giving notice to the other.

Modification
of Town and
Country
Planning
Act 1971.
1971 c. 78.
S.I. 1977/289.

15.—(1) In their application to development authorised by this Act, article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act 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 Act were limited to development begun within seven years after the passing of this Act.

(2) In this section the reference to article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 includes a reference to corresponding provisions of any general order superseding that order made under section 24 of the Town and Country Planning Act 1971 or any corresponding provision of an Act repealing that section.

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CHAPTER xiii

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PRELIMINARY

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*Shrewsbury and Atcham Borough Council
(Frankwell Footbridge) Act 1977*

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LANDS

Section

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