



British Railways (No. 2) Act 1992

1992 CHAPTER xi

PART V

PROTECTIVE PROVISIONS

43 For protection of Berkshire County Council

For the protection of the Berkshire County Council (in this section referred to as “the council”) the following provisions shall, unless otherwise agreed in writing between the Board and the council, have effect:—

(1) In this section—

“highway” means any highway vested in or repairable or maintainable by the council;

“new highway” means any new or widened highway to be provided by the Board under the provisions of this Act and the expression “new highways” shall be construed accordingly;

“plans” includes sections and particulars; and

“specified works” means Works Nos. 2A, 2B and 2C, the new highways and so much of the works as may in any way affect any highway in the county of Berkshire:

(2) The Board shall not exercise the powers of section 20 (Temporary stoppage of highways) of this Act with respect to any highway unless they have given to the council not less than 21 days' notice in writing of their intention so to do, except in case of emergency when such notice as is practicable shall be given:

(3) Before commencing the construction of any of the specified works, the Board shall submit to the council for their approval, which shall not be unreasonably withheld, plans thereof and, notwithstanding anything shown on the deposited plans and the deposited sections, the work to which such plans relate shall not be constructed otherwise than in accordance with such plans as may be approved by the council as aforesaid, or, if such approval be refused, as may be settled by arbitration, and any part of the construction of the specified works which may involve interference with

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a highway shall be carried out under the supervision (if given) and to the reasonable satisfaction of the council:

Provided that, if within 56 days after the submission to them of plans in accordance with the provisions of this paragraph the council do not signify their approval or disapproval thereof and the grounds for such disapproval, they shall be deemed to have approved thereof:

- (4) Notwithstanding anything in this Act or shown on the deposited plans Work No. 2A shall be designed, constructed and maintained so as to provide for loadings to be agreed in advance by the council (provided that nothing in this paragraph shall enable the council to require loadings to be provided in excess of those for which the existing Wexham Road Bridge is capable of bearing when properly maintained) and the Board shall indemnify the council against and make good to the council all expenses which the council may reasonably incur or be put to in the maintenance or repair of any highway, drain or apparatus therein by reason of any non-compliance by the Board with the provisions of this paragraph:
- (5) (a) Before commencing to construct any part of the specified works which will involve interference with a highway the Board shall consult the council as to the time when such part shall be commenced, as to the extent of the surface of the highway which it may be reasonably necessary for the Board to occupy in the construction of such part and as to the conditions under which such part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public, and such part shall not be constructed and the surface of the highway shall not be occupied by the Board except at the time, to the extent and in accordance with such reasonable conditions as may be agreed between the Board and the council or, in default of agreement, settled by arbitration;
- (b) Any such highway shall be reinstated by the Board in a manner approved by the council and to their reasonable satisfaction but approval by the council shall not be unreasonably withheld:
- (6) The Board shall, at all reasonable times during the construction of any part of the specified works, afford to the surveyor of the council or his duly authorised representatives access to that part of the specified works for the purposes of inspection:
- (7) The structure of Works Nos. 2A, 2B and 2C, the embankments on which the approaches to those works are constructed and any fencing on either side of those approaches shall be maintained by the Board:
- (8) (a) The surface of the carriageway and footways of Work No. 2A shall be vested in and maintained by the council which shall have all such rights in relation to the subsoil and undersurface thereof as are necessary for the performance of their functions as highway authority:

Provided that the Board shall be liable to the council for the maintenance of any new highway and the surface of the new bridge for a period of 12 months after the date of completion;

- (b) In this paragraph “date of completion” means the date upon which the new highway or, as the case may be, Work No. 2A is completed in accordance with the requirements of this section and open for public use or, in the case of a difference between the Board and the council as to whether the said requirements have been complied with, until the matter in dispute has been referred to and settled by arbitration and the arbitrator has certified that the

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new highway or, as the case may be, Work No. 2A has been completed in accordance with his decision:

- (9) The Board shall keep the council indemnified against all actions, costs, claims and demands whatsoever brought or made against the council by any person in respect of loss or damage caused by, or in consequence of, the construction of any of the specified works and the fact that any act or thing may have been done in accordance with plans approved by the council or in accordance with any requirement of the council or under their supervision shall not (if it was done without negligence on the part of the council) excuse the Board from liability under the provisions of this section:

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

- (10) The Board shall repay to the council all costs, charges and expenses reasonably incurred by the council in the examination of the plans submitted to the council under this section in relation to any of the specified works:
- (11) Any difference arising between the Board and the council under this section shall be referred to and settled by arbitration.