
STATUTORY INSTRUMENTS

2022 No. 820

The Northumberland Line Order 2022

PART 2

WORKS PROVISIONS

Supplemental powers

Power to survey and investigate land

- 4.—(1) The Council may, in connection with the development—
- (a) survey or investigate any land shown within the Order limits;
 - (b) without limitation on the scope of sub-paragraph (a), make excavations or trial holes and boreholes in such positions on the land as the Council thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
 - (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes; and
 - (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice before the first day on which the Council intends to enter the land in exercise of the power conferred by paragraph (1) has been served on every owner and occupier of the land.

- (3) Notice given in accordance with paragraph (2) must—
- (a) include a statement of the recipient's rights under paragraph (6); and
 - (b) if the Council proposes to do any of the following, include details of what is proposed—
 - (i) searching, boring or excavating;
 - (ii) leaving apparatus on the land;
 - (iii) taking samples;
 - (iv) an aerial survey;
 - (v) carrying out any other activities that may be required to facilitate compliance with the Conservation of Habitats and Species Regulations 2017(1).
- (4) Any person entering land under this article on behalf of the Council—
- (a) must, if so required, before or after entering the land, produce written evidence of authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.

(5) No trial holes are to be made under this article—

(a) in a carriageway or footway without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(6) The Council must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(7) Section 13 (refusal to give possession to acquiring authority)(2) of the 1965 Act applies to entry onto land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 15(1) (application of Part 1 of the 1965 Act).

Discharge of water

5.—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the Council under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers)(3) of the Water Industry Act 1991.

(3) The Council must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose.

(4) The Council must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The Council must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The Council must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit)(4) of the Environmental Permitting (England and Wales) Regulations 2016.

(8) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, or a local authority; and

(2) Section 13 was amended by sections 62(3) and 139 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).

(3) 1991 c. 56. Section 106 was amended by sections 35(8), 43(2) and 56(7) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), section 99 of the Water Act 2003 (c. 37), and section 32 of, and paragraph 16(1) of Schedule 3 to, the Flood and Water Management Act 2010 (c. 29).

(4) S.I. 2016/1154. There are amendments to regulation 12 which are not relevant to this Order.

- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(5) have the same meaning as in that Act.

Felling or lopping of trees

6.—(1) The Council may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if the Council reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the development or any apparatus used in connection with the development; or
- (b) from constituting a danger to persons using the development.

(2) In carrying out any activity authorised by paragraph (1), the Council must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.