
STATUTORY INSTRUMENTS

2022 No. 1194

The Portishead Branch Line (MetroWest Phase 1) Order 2022

PART 2

Principal powers

Application and modification of legislation

4.—(1) The provisions of Chapter 1 of Part 2 of the 2017 Act do not apply as regards the temporary possession or use of land under articles 33 (temporary use of land for carrying out the authorised development) and 34 (temporary use of land for maintaining the authorised development) of this Order or to anything else done under this Order.

(2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010⁽¹⁾ any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Development consent etc. granted by the Order

5. Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Planning permission

6.—(1) If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

(2) The provisions of this Order do not preclude or apply to any development, or any part of a development, which is carried out by, or used by, Network Rail on any land (whether or not within the Order limits)—

(1) [S.I. 2010/948](#).

- (a) that is or will become operational railway land and is carried out in accordance with any planning permission granted under the 1990 Act including a planning permission granted under article 3 and Class A of Part 8 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(2); or
- (b) that is carried out in accordance with any planning permission granted under the 1990 Act including a planning permission granted under article 3 and Class A of Part 18 of Schedule 2 to that Order.

Limits of deviation

7.—(1) In constructing or maintaining Work Nos. 1, 1A, 1B and 1C the undertaker may deviate—

- (a) laterally from the lines or situations shown on the works plans to the extent of the limits of deviation so shown for the work; and
- (b) vertically from the levels shown on the section drawings—
 - (i) to any extent upwards not exceeding 0.5 metres; and
 - (ii) to any extent downwards not exceeding 0.5 metres.

(2) In constructing or maintaining any other work comprised in the authorised development the undertaker must construct any such work within the extents of work shown on the works plans for the relevant work.

Maintenance of authorised development

8.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Paragraph (1) does not authorise any works which are likely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Benefit of Order

9. Subject to article 10 (consent to transfer benefit of Order) and article 11 (agreements with Network Rail) the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

10.—(1) The undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State and the consent of Network Rail are required for a transfer or grant under this article unless such transfer or grant is to Network Rail in accordance with an agreement made under article 11.

Agreements with Network Rail

11.—(1) The undertaker and Network Rail may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of—

- (a) the authorised development or any part of the authorised development; and
- (b) any works required for the purposes of or in connection with the authorised development, by Network Rail or by the undertaker, or by the undertaker and Network Rail jointly.

(2) Any agreement made pursuant to the powers conferred by this article may contain such incidental, consequential or supplementary provisions as may be agreed, including (but without limitation on the scope of paragraph (1)), provisions—

- (a) with respect to the defraying of, or the making of contributions towards, the cost of such construction, maintenance, use and operation as are referred to in paragraph (1) by the undertaker or by Network Rail or by the undertaker and Network Rail jointly;
- (b) for the exercise by Network Rail, or by the undertaker, or by Network Rail and the undertaker jointly, of all or any of the powers and rights of Network Rail and the undertaker (as the case may be) in respect of any of the authorised development and any works required for the purposes of, or in connection with, those works; and
- (c) without limitation on the scope of sub-paragraph (b), for the exercise by Network Rail, or by Network Rail and the undertaker jointly, of all or any of the powers under this Order for, or relating to, the compulsory acquisition or the taking of temporary possession of any land or rights over land.

(3) The exercise by the undertaker or Network Rail or by the undertaker and Network Rail jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (1) is subject to all statutory and contractual provisions relating to it as would apply if such powers and rights were exercised by the undertaker or Network Rail (as the case may be) alone, and accordingly such provisions, with any necessary modifications, apply to the exercise of such powers and rights by the undertaker or Network Rail or by the undertaker and Network Rail jointly, as the case may be.

(4) The undertaker and Network Rail may enter into, and carry into effect, agreements for the transfer to and vesting in Network Rail or the undertaker, or the undertaker and Network Rail jointly of—

- (a) any of the authorised development or any part of that development; or
- (b) any works, lands or other property required for the purposes of the authorised development or in connection with such development,

together with any rights and obligations (whether or not statutory) of Network Rail or the undertaker relating to them.