

SCHEDULE 7

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW EASEMENTS AND RIGHTS

4.—(1) For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following—

“8.—(1) Where, in consequence of the service on a person under section 5 of this Act (1) of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“ the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the tribunal, and
- (b) before the tribunal has determined that question that person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Leicestershire County Council (Ashby de la Zouch Canal Extension) Order 2005 (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.”.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where, in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1)(b) of this section, the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made.

(4) Nothing in subsection (3) prejudices any other power of the authority to withdraw the notice.

(1) Section 5(2A) – 2(e) were inserted by section 67 of the Planning and Compensation Act 1991 (c. 34).