

SCHEDULES

SCHEDULE 1

Article 2

SCHEDULED WORK

In the County of Suffolk, Suffolk Coastal District, Parish of Trimley St Martin—

Work No. 1 – A bridge, incorporating ramps and stairs, over the Felixstowe Branch Line railway commencing on restricted byway 28 at a point 105 metres east of the junction of public footpath 29 with restricted byway 27 and terminating at a point 20 metres north-east of its commencement.

SCHEDULE 2

Article 3(6) and 10(1)

ACQUISITION OF CERTAIN LANDS FOR ANCILLARY WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plan</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
County of Suffolk, Suffolk Coastal District Parish of Trimley St Martin	1, 3, 4, 5, 6, 18, 23, 46	Provision of a new highway
	9, 12, 19, 29, 34, 48	Provision of environmental mitigation
	14	Provision of a new highway and access for maintenance works
County of Suffolk, Suffolk Coastal District Parish of Trimley St Mary	20, 21, 22	Provision of environmental mitigation
	24, 25, 26, 50, 51, 53	Provision of a new highway

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SCHEDULE 3

Articles 3(3), 5, 6 and 7

LEVEL CROSSINGS AND HIGHWAYS TO BE STOPPED UP

PART 1

LEVEL CROSSINGS AND HIGHWAYS TO BE STOPPED UP SUBJECT TO OPENING OF NEW HIGHWAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Level crossing to be stopped up and discontinued</i>	<i>(3)</i> <i>Highway or part of highway to be stopped up</i>	<i>(4)</i> <i>Alternative(s) to be provided</i>	<i>(5)</i> <i>Status of new highway</i>
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Martin	Thorpe Common	Public Footpath 1 between points P1 and P2	New footpath between points P1, P3, Thorpe Lane and new footpath between point P4 and point P2	Footpath
	Trimley	Public Footpath 33 between points P7 and P8	New footpath between points P7 and P9, new footpath over stairs forming part of Work No. 1, new Bridleway over Work No. 1, new footpath over stairs forming part of Work No. 1, new footpath between points P10, P11, Footpath 30, Footpath 33 (on Sheet No. 2) to point P8 (on Sheet No. 3)	Footpath (except Bridleway over Work No. 1)
	St Martin's	Public Footpaths 29 and 30 between points P9 and P11	New footpath between point P9 and stairs forming part of Work No. 1, new footpath over stairs forming part of Work No. 1, new bridleway over Work No. 1, new footpath over stairs forming part of Work No. 1, new footpath between points P10 and P11 New footpath between points P10 and P14	Footpath (except Bridleway over Work No. 1)

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Level crossing to be stopped up and discontinued</i>	<i>(3)</i> <i>Highway or part of highway to be stopped up</i>	<i>(4)</i> <i>Alternative(s) to be provided</i>	<i>(5)</i> <i>Status of new highway</i>
	Gun Lane	Restricted byway 28 (Gun Lane) between points P12 and P13	New Bridleway between point P12 and Work No. 1, new bridleway over Work No. 1, new bridleway between points P14 and P13	Bridleway
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Mary	Keeper's Lane	Bridleway 22 Between points P15 and P16	New bridleway between points P15, P17, P18 (on Sheet No. 3) and P19, Restricted byway 27, to point P20, Restricted byway 28, to point P12, new bridleway to Work No. 1, new bridleway over Work No. 1, new bridleway between points P14 and P13, Restricted byway 28 to point P21 (on Sheet No. 2) public footpath 2 (to be upgraded to bridleway under article 7 and Schedule 5) between points P21, P22, P23 and P24 (on Sheet No. 4), Bridleway 22 to point P16	Bridleway

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PART 2

LEVEL CROSSING AND HIGHWAY TO BE STOPPED UP NOT SUBJECT TO OPENING OF NEW HIGHWAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Level crossing to be stopped up and discontinued</i>	<i>(3)</i> <i>Highway or part of highway to be stopped up</i>
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Martin	Grimston Lane	Public Footpath 51 (Grimston Lane) between points P5 and P6

SCHEDULE 4

Article 5

APPARATUS AND RIGHTS OF STATUTORY UNDERTAKERS ETC. IN STOPPED UP HIGHWAYS

1.—(1) On the stopping up of any level crossing or highway under article 5 (level crossings and highways to be stopped up) any statutory utility whose apparatus is under, in, upon, along or across that level crossing or highway has the same powers and rights in respect of that apparatus, subject to the provisions of this Schedule, as if this Order had not been made.

(2) On the stopping up of any level crossing or highway under article 5 any statutory utility whose apparatus is under, in, upon, over, along or across that level crossing or highway may, and if reasonably requested to do so by Network Rail must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in that other position.

(3) Subject to the following provisions of this Schedule, Network Rail must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the level crossing or highway concerned; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under sub-paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by Network Rail, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which

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apart from this paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of sub-paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this sub-paragraph, would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) (and having regard, where relevant, to sub-paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Sub-paragraphs (3) to (6) do not apply where the authorised works constitute major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by Network Rail and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this Schedule—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under sub-paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) (interpretation) of the Communications Act 2003(1).

SCHEDULE 5

Articles 3(3) and 7

UPGRADING OF CERTAIN FOOTPATHS TO BRIDLEWAYS

(1) <i>Area</i>	(2) <i>Footpath to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>Bridleway to be substituted</i>
County of Suffolk, Suffolk Coastal District, Parish of Trimley St. Mary	Public Footpath 1	Between points P25 and P26	Bridleway between points P25 and P26
County of Suffolk, Suffolk Coastal District,	Public Footpath 2 (as shown on the	Between points P21, P22, P23 and P24 (on Sheet No. 4)	Bridleway between points P21, P22,

(1) 2003 c. 21. There are amendments to section 151(1) not relevant to this Order.

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(1) <i>Area</i>	(2) <i>Footpath to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>Bridleway to be substituted</i>
Parishes of Trimley St. Mary and Trimley St. Martin	definitive map and statement)		P23 and P24 (on Sheet No. 4)

SCHEDULE 6

Article 9

STREETS TO BE TEMPORARILY STOPPED UP

(1) <i>Area</i>	(2) <i>Street to be temporarily stopped up</i>	(3) <i>Extent of temporary stopping up</i>
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Martin	Public Footpath 1	Between points P1 and P2
	Public Footpath 4	Within Order limits
	Footpath 33	Between points P7 and P8
	Footpaths 29 and 30	Within Order limits
	Restricted byway 3 (Gun Lane)	Within Order. limits
	Restricted byway 28 (Gun Lane)	Within Order limits
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Mary	Bridleway 22	Between points P15 and P16
County of Suffolk, Suffolk Coastal District, Parishes of Trimley St. Martin and Trimley St. Mary	Public Footpath 2 (as shown on Ordnance Survey mapping)	Between points P21, P23 and P24 (on Sheet No. 4)
	Public Footpath 2 (as shown on the definitive map and statement)	Between points P21, P22, P23 (on Sheet No. 4) and P24
	Public Footpath 1	Between points P25 and P26

SCHEDULE 7

Article 13

LAND IN WHICH ONLY NEW RIGHTS MAY BE ACQUIRED

(1) <i>Area</i>	(2) <i>Number of land shown on the land plan</i>	(3) <i>Purpose for which rights may be acquired</i>
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Martin	15, 16, 17, 32, 33, 35, 37, 40, 41	Access for maintenance works
County of Suffolk, Suffolk Coastal District, Parish of Trimley St Mary	38, 39, 42, 43	Access for maintenance of works

SCHEDULE 8

Article 13

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modifications set out in sub-paragraphs (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 8 to the Network Rail (Felixstowe Branch Line Improvements – Level Crossings Closure) Order 2018 (“the 2018 Order”)),
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 8 to the 2018 Order) to acquire an interest in the land, and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(2) has effect subject to the modifications set out in sub-paragraph (2).

(2) 1973 c. 26.

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(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for the words “land is acquired or taken” substitute “a right over land is purchased”; and
- (b) for the words “acquired or taken from him” substitute “over which the right is exercisable”.

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act, as applied by article 11 (application of Part 1 of the 1965 Act) to the acquisition of land under article 10(1) (power to acquire land) applies to a compulsory acquisition of rights under article 13 (power to acquire new rights)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or
- (b) the land over which the right is, or is to be, exercisable.

(3) For section 7 (measure of compensation in the case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had, not only to the extent (if any) to which the value of the land over which the right is acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure of owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily is vested absolutely in the acquiring authority.

(5) Section 11(3) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority have served notice to treat in respect of any right as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 10(1) (application of Part 1 of the 1965 Act)), they have power, exercisable in the same circumstances and subject to the same conditions, to enter for the purpose of exercising that right; and sections 11A(4)

(3) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 6 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(4) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(powers of entry: further notices of entry), 11B(5) (counter-notice requiring possession to be taken on specified date), 12(6) (penalty for unauthorised entry) and 13(7) (refusal to give possession to acquiring authority) of that Act are modified accordingly.

(6) Section 20(8) (protection for interests of tenants at will, etc) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of the land, but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act (as modified by article 11(7)) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A(9) to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over a house, building or factory.
2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—
 - (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

(5) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016.

(6) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016.

(7) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 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).

(8) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(9) Inserted by section 199(1) and paragraphs 1 and 3 of Part 1 of Schedule 17 to the Housing and Planning Act 2016.

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8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the proposed use of the right, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 9

Article 14

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
County of Suffolk, Suffolk Coastal District,	2	Provision of a temporary right of way

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
Parish of Trimley St Martin	7, 13, 27, 28, 32, 33, 36, 37, 45, 47	Construction worksite and access
County of Suffolk, Suffolk Coastal District,	38, 39, 49	Construction worksite and access
Parish of Trimley St Mary	44	Construction worksite and access, provision of a temporary right of way