
STATUTORY INSTRUMENTS

2001 No. 3682

The London Underground (East London
Line Extension) (No. 2) Order 2001

PART II

WORKS PROVISIONS

Principal powers

Power to construct works

4.—(1) The Company may construct and maintain the scheduled works.

(2) Subject to article 5 below, the scheduled works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) Subject to paragraph (6) below, the Company may from time to time carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains, pipes and cables;
- (b) works to erect and construct such houses, warehouses, offices, and other buildings, yards, stations, engines, machinery, apparatus, and other works, and conveniences as the Company thinks fit;
- (c) junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any highway or access way interfered with by, or contiguous with, any of the works described in this paragraph, and works to widen or alter any highway or access way for the purposes of connecting it with any of those works or another highway, or of crossing under or over another highway or access way;
- (d) all such embankments, aprons, abutments, retaining walls, wing walls, culverts and such other works as the Company thinks fit;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works; and
- (f) works for the benefit or protection of premises affected by the scheduled works.

(4) Without prejudice to the generality of paragraphs (2) and (3) above, the Company may, in connection with the construction of the scheduled works—

- (a) provide the following streets in the London Borough of Lewisham—
 - (i) a footpath between points F2, F3, F4, F5, F19 and F20;
 - (ii) a footpath between points F21, F9 and F10; and
 - (iii) a footpath between points F18, F22 and F23;
- (b) provide a controlled pedestrian crossing between points F20 and F21 in Surrey Canal Road.

(5) Subject to paragraph (6) below, the Company may from time to time carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(6) Paragraphs (3), (4) and (5) above shall only authorise the carrying out or maintenance of works outside the limits of deviation for the scheduled works shown on the deposited plans if the works are carried out on land specified in columns (1) and (2) of Schedule 2 to this Order for the purpose specified in relation to that land in column (3) of that Schedule.

Power to deviate

5. In constructing or maintaining any of the scheduled works, the Company may—
- (a) deviate laterally from the lines or situations shown on the deposited plans to the extent of the limits of deviation for that work shown on the deposited plans, and
 - (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent not exceeding 5 metres upwards, or
 - (ii) to any extent downwards as may be found necessary or convenient.

Streets

Power to execute street works

6.—(1) The Company may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 to this Order as is within the limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c) above.

(2) This article is subject to paragraph 3 of Schedule 9 to this Order.

(3) In this article “apparatus” has the same meaning as in Part III of the 1991 Act and includes a sewer, drain or tunnel and any structure for the lodging within that structure of apparatus or any structure required for gaining access to apparatus.

Stopping up of streets and extinguishment of rights

7.—(1) Subject to the provisions of this article, the Company may, in connection with the construction of the authorised works, stop up the streets specified in columns (1) and (2) of Schedule 4 to this Order to the extent specified, by reference to the letters and numbers shown on the deposited plans, in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 4 to this Order shall be wholly or partly stopped up under this article unless either—

- (a) the new street to be substituted for it and which is specified in relation to it by reference to the letters and numbers shown on the deposited plans in column (4) of that Schedule has been completed to the reasonable satisfaction of the street authority and is open for use, or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and thereafter maintained by the Company to the reasonable satisfaction of the street authority between the commencement and termination points of

the street to be stopped up until completion of the new street in accordance with subparagraph (a) above.

(3) Where a street has been stopped up under this article the Company may, without making any payment therefor but subject to sections 77 to 85E of, and Schedules 1 to 3 to, the 1845 Act (which relate to minerals under railways), appropriate and use for the purposes of its undertaking the street so stopped up.

(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(5) This article is subject to paragraph 2 of Schedule 9 to this Order.

Temporary stopping up of streets

8.—(1) The Company, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2) below, prevent all persons from passing along the street.

(2) The Company shall provide reasonable access for pedestrians going to or from premises abutting on a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1) above, the Company may exercise the powers of this article in relation to the streets specified in columns (1) and (2) of Schedule 5 to this Order to the extent specified in column (3) to that Schedule.

(4) The Company shall not exercise the powers of this article—

- (a) in relation to any street specified as mentioned in paragraph (3) above without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The provisions of the 1991 Act mentioned in paragraph (6) below and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the Company under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the Company.

(6) The provisions of the 1991 Act referred to in paragraph (5) above are—

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulation);
- section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

Access to works

9. The Company may, for the purposes of the authorised works—
- (a) form and lay out means of access or improve existing means of access in the locations specified in columns (1) and (2) of Schedule 6 to this Order; and
 - (b) with the approval of the highway authority (such approval not to be unreasonably withheld) form and lay out such other means of access or improve existing means of access at such locations within the limits as the Company reasonably requires for the purposes of the authorised works.

Construction and maintenance of new or altered streets

10.—(1) Subject to paragraph (5) below, any street to be constructed under this Order shall be completed to the reasonable satisfaction of the highway authority and shall, unless otherwise agreed, be maintained by and at the expense of the Company for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Subject to paragraph (5) below, where a street is altered or diverted under this Order, the altered or diverted part of the street shall when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, be maintained by and at the expense of the Company for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority and the obligation to maintain includes the controlled pedestrian crossing authorised to be constructed under article 4(4) above.

(3) Nothing in this article shall prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the Company shall not by reason of any duty under this article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part III of that Act.

(4) Nothing in this article shall have effect in relation to street works as respects which the provisions of Part III of the 1991 Act apply.

- (5) Paragraphs (1) and (2) above shall not apply in relation to—
- (a) the structure of any bridge or tunnel carrying a street over or under any railway of the Company;
 - (b) the construction and maintenance of Work No. 14; and
 - (c) the footpaths constructed, diverted or altered—
 - (i) between points F2, F3, F4, F5, F19 and F20; and
 - (ii) between points F21, F9 and F10.

Construction and maintenance of bridges

11. Notwithstanding any other provision of this Order or any enactment or rule of law the Company may in constructing and maintaining bridges authorised to be constructed under this Order—

- (a) carry Work No. 5 over Surrey Canal Road by means of a bridge which shall not reduce the headway under that bridge to less than 5.30 metres measured between the surface of the road and the underside of that bridge; and
- (b) carry Works Nos. 9, 10, 11 and 14 over Cold Blow Lane by means of bridges which shall not reduce the headway under those bridges to less than 3.65 metres measured between the surface of the lane and the underside of those bridges; and

- (c) carry Work No. 5 over Hornshay Street by means of a bridge which shall not reduce the headway to less than 3.25 metres between the surface of that street and the underside of that bridge.

Agreements with street authorities

- 12.**—(1) A street authority and the Company may enter into agreements with respect to—
- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order;
 - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a railway;
 - (c) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (d) the execution in the street of any of the works referred to in article 6(1) above.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1) above—
- (a) make provision for the street authority to exercise any function under this Order which relates to the street in question; and
 - (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Use of existing works at Surrey Canal Road

- 13.**—(1) If the Company proceeds with the construction of the new bridge it may do either or both of the following—
- (a) hold, use and appropriate such parts of the original bridge as it may require for the purposes of the new bridge or for any purpose connected with or ancillary to its undertaking;
 - (b) take down and remove such parts of the original bridge as it does not require for those purposes.
- (2) Notwithstanding article 35 below all the powers and obligations conferred or imposed upon the Company by the 1865 Act in relation to the original bridge including any obligation to maintain it shall cease to have effect.
- (3) In this article—
- “the new bridge” means the bridge to be constructed across Surrey Canal Road as part of Work No. 5;
 - “the original bridge” means the former railway bridge and such other works and premises authorised by the 1865 Act as are within the limits of deviation for Work No. 5; and
 - “the 1865 Act” means the East London Railway Act 1865(1).

Supplemental powers

Discharge of water

- 14.**—(1) The Company may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the limits, make openings into, and connections with, the watercourse, sewer or drain.

(1) 1865 c. li.

(2) The Company shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The Company shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The Company shall not, in the exercise of the powers conferred by this article, damage or interfere with the beds or banks of any watercourse forming part of a main river.

(5) The Company shall 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 or oil or matter in suspension.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(2).

(7) 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, a local authority or a joint planning board;
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Safeguarding works to buildings

15.—(1) Subject to the following provisions of this article, the Company may at its own expense and from time to time carry out such safeguarding works to any building lying within—

- (a) the limits of deviation, or
- (b) the land specified in columns (1) and (2) of Part I of Schedule 8 to this Order for the purposes specified in relation to that land in column (3) of that Part of the Schedule relating to the authorised works so specified in column (4) of that Part of the Schedule,

as the Company considers to be necessary or expedient.

(2) Safeguarding works may be carried out—

- (a) at any time before or during the construction in the vicinity of the building of any part of the authorised works; or
- (b) after the completion of the construction of that part of the authorised works, at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Company may enter and survey any building falling within paragraph (1) above and any land belonging to it.

(4) For the purpose of carrying out safeguarding works under this article to a building the Company may (subject to paragraphs (5) and (6) below)—

- (a) enter the building and any land belonging to it; and

(2) 1991 c. 57.

- (b) where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) above to carry out safeguarding works to a building;
- (b) a right under paragraph (3) above to enter a building;
- (c) a right under paragraph (4)(a) above to enter a building or land; or
- (d) a right under paragraph (4)(b) above to enter land,

the Company shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c) above, specifying the safeguarding works proposed to be carried out.

(6) Where notice is served under paragraph (5)(a), (c) or (d) above, the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be referred to arbitration under article 44 below.

(7) The Company shall compensate the owners and occupiers of any building or land in relation to which the powers of this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) safeguarding works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed within the vicinity of the building is first opened for use it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of that part of the works;

the Company shall compensate the owners and occupiers of the building for any damage sustained by them.

(9) Subject to article 43 below, nothing in this article shall relieve the Company from any liability to pay compensation under section 10(2) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) above shall be determined, in case of dispute, under Part I of the 1961 Act.

(11) In this article—

- (a) “building” includes any structure or erection or any part of a building, structure or erection;
- (b) “safeguarding works”, in relation to a building, means—
 - (i) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, maintenance or operation of the authorised works, and
 - (ii) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, maintenance or operation of the authorised works.

Power to survey and investigate land

16.—(1) The Company may for the purposes of this Order—

- (a) survey or investigate any land shown within the limits or which may be affected by the authorised works;

- (b) without prejudice to the generality of sub-paragraph (a) above, make trial holes in such positions as the Company thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) 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
 - (d) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (c) above.
- (2) No land may be entered, or equipment placed or left on or removed from the land under paragraph (1) above, unless at least 7 days' notice has been served on every owner and occupier of the land.
- (3) Any person entering land under this article on behalf of the Company—
- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
 - (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.
- (5) The Company shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

Planning permission: supplementary matters

17.—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969⁽³⁾ as incorporated in any tree preservation order, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of the 1990 Act.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999⁽⁴⁾ as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act.

(3) S.I.1969/17.

(4) S.I. 1999/1892.