
STATUTORY INSTRUMENTS

2017 No. 257

**The Network Rail (Northumberland Park Level Crossing
and Coppermill Lane Level Crossing Closure) Order 2017**

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

3.—(1) Network Rail may construct and maintain the work, comprising a footbridge over the West Anglia Main Line railway lines, commencing at a point 56 metres south-east of the junction of Marsh Lane with Park Avenue Road and terminating at a point 75 metres east of that junction.

(2) Subject to article 4 (power to deviate), the work may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the section.

(3) Network Rail may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the work, namely—

- (a) demolition of the existing footbridge over the West Anglia Main Line railway lines within Northumberland Park station;
- (b) electrical equipment and signalling works;
- (c) ramps, means of access and footpaths; and
- (d) works to install or alter the position of apparatus, including mains, sewers, drains and cables.

(4) Network Rail may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the work, other than works that would interfere with a navigable watercourse.

Power to deviate

4. In constructing or maintaining the work, Network Rail may—

- (a) deviate laterally from the lines or situations shown on sheet 1 of the deposited plans to the extent of the limits of deviation for the work; and
- (b) deviate vertically from the levels shown on the section—
 - (i) to any extent not exceeding 3 metres upwards; or
 - (ii) to any extent downwards as may be found to be necessary or convenient.

Crossings

Closure of Northumberland Park level crossing

5.—(1) Subject to paragraph (3) the Northumberland Park level crossing and the existing footpath are stopped up and discontinued.

(2) Subject to paragraph (3), upon the stopping up and discontinuance of the Northumberland Park level crossing and the existing footpath any right of way over the Northumberland Park level crossing is extinguished and any public right of way over the existing footpath is extinguished.

(3) Paragraphs (1) and (2) are not to have effect until the new public right of way has been constructed and completed to the reasonable satisfaction of the highway authority in accordance with article 7 (creation and maintenance of new public right of way) and is open for use.

(4) Any person who suffers loss by the extinguishment of any private right of way over the Northumberland Park level crossing under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply so as to extinguish the rights of statutory undertakers to maintain their apparatus.

Closure of Coppermill Lane level crossing

6.—(1) The Coppermill Lane level crossing is stopped up and discontinued.

(2) Upon the stopping up and discontinuance of the Coppermill Lane level crossing any right of way over the crossing is extinguished.

(3) Any person who suffers loss by the extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) This article does not apply so as to extinguish the rights of statutory undertakers to maintain their apparatus.

(5) On the coming into force of this Order, section 74 of the Northern and Eastern Railway and Eastern Counties Railway Junction Act 1839(1) (provision for maintaining communication where railway crosses the Walthamstow and Leyton Marshes) ceases to have effect insofar as it affects the Coppermill Lane level crossing.

Creation and maintenance of new public right of way

7.—(1) The new public right of way is to be completed to the reasonable satisfaction of the highway authority and is to be maintained by and at the expense of Network Rail for a period of 12 months from its completion and after the expiry of that period by and at the expense of the highway authority.

(2) In any action against Network Rail in respect of loss or damage resulting from any failure by it to maintain the new public right of way, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that Network Rail had taken such care as in all the circumstances was reasonably required to secure that the part of the new public right of way to which the action relates was not dangerous to traffic.

(3) For the purposes of a defence under paragraph (3), the court must in particular have regard to the following matters—

- (a) the character of the new public right of way and the traffic which was reasonably to be expected to use it;

(1) 1839 c. lxxviii.

- (b) the standard of maintenance appropriate for a public right of way of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the new public right of way;
- (d) whether Network Rail knew, or could reasonably have been expected to know, that the condition of the part of the new public right of way to which the action relates was likely to cause danger to users of the new public right of way;
- (e) where Network Rail could not reasonably have been expected to repair that part of the new public right of way before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that Network Rail had arranged for a competent person to carry out or supervise the maintenance of the part of the new public right of way to which the action relates unless it is also proved that Network Rail had given the competent person proper instructions with regard to the maintenance of the new public right of way and that the competent person had carried out those instructions.

(4) The new public right of way is to be treated as completed to the satisfaction of the highway authority if the highway authority fails to reply to a request for certification that it is satisfied with the work within 28 days of receiving the request.

(5) This article does not apply in relation to the structure of any bridge carrying the new public right of way over any railway of Network Rail.