
STATUTORY INSTRUMENTS

2022 No. 820

The Northumberland Line Order 2022

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Northumberland Line Order 2022 and comes into force on 1st August 2022.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1980 Act” means the Highways Act 1980(3);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

“the 1990 Act” means the Town and Country Planning Act 1990(5);

“the 1991 Act” means the New Roads and Street Works Act 1991(6);

“the 2003 Act” means the Communications Act 2003(7);

“address” includes any number or address used for the purposes of electronic transmission;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“the Council” means Northumberland County Council of County Hall, Morpeth, Northumberland;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation)(8) of the 1980 Act;

(1) 1961 c. 33.

(2) 1965 c. 56.

(3) 1980 c. 66.

(4) 1981 c. 66.

(5) 1990 c. 8.

(6) 1991 c. 22.

(7) 2003 c. 21.

(8) The definition of “cycle track” (in section 329(1)) was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“the development” means the works and operations authorised by this Order and any other works and operations incidental or ancillary to the re-introduction of passenger rail services between Ashington in the County of Northumberland and Newcastle upon Tyne permitted by—

- (a) the planning permissions; and
- (b) the Town and Country Planning (General Permitted Development) (England) Order 2015⁽⁹⁾, including Part 18 of Schedule 2 to that Order in relation to works authorised by the enabling Acts;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form,

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the Communications Act 2003⁽¹⁰⁾;

“the enabling Acts” means—

- (a) the Blyth and Tyne Railway Act 1852⁽¹¹⁾;
- (b) the Blyth and Tyne Railway Branches Act 1853⁽¹²⁾;
- (c) the Blyth and Tyne Railway Consolidation and Extensions Act 1854⁽¹³⁾;
- (d) the Blyth and Tyne Railway Amendment Act 1857⁽¹⁴⁾;
- (e) the Blyth and Tyne Railway Amendment Act 1861⁽¹⁵⁾;
- (f) the Blyth and Tyne Railway Act 1872⁽¹⁶⁾; and
- (g) the North Eastern Railway Act 1902⁽¹⁷⁾;

“footpath” and “footway” have the same meanings as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“land and works plans” means the plans certified by the Secretary of State as the land and works plans for the purposes of this Order;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and “maintenance” is to be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN;

“Order limits” means the Order limits as shown on the land and works plans;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981⁽¹⁸⁾;

“the planning permissions” means—

- (a) the planning permissions identified in Schedule 1 (planning permissions);

⁽⁹⁾ S.I. 2015/596.

⁽¹⁰⁾ 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

⁽¹¹⁾ 1852 c. cxxii.

⁽¹²⁾ 1853 c. clxxii.

⁽¹³⁾ 1854 c. lxxix.

⁽¹⁴⁾ 1857 c. cxiv.

⁽¹⁵⁾ 1861 c. xcvi.

⁽¹⁶⁾ 1872 c. l.

⁽¹⁷⁾ 1902 c. clxviii.

⁽¹⁸⁾ 1981 c. 67. The definition of “owner” (in section 7(1)) was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to the Order.

- (b) any planning permission granted under section 73 (Determination of applications to develop land without compliance with conditions previously attached) of the 1990 Act⁽¹⁹⁾ directly related to any of those planning permissions; and
- (c) any other planning permission granted under the 1990 Act for the development listed in column (4) of Schedule 1;

“the railway” means the existing railway line between Ashington and Newcastle;

“rights of way plans” means the plans certified by the Secretary of State as the rights of way plans for the purposes of this Order;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 151(1) (interpretation of Chapter 1) of the 2003 Act⁽²⁰⁾;

“street” has the meaning given in section 48 (streets, street works and undertakers) of the 1991 Act;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act; and

“the tribunal” means the Lands Chamber of the Upper Tribunal.

(2) All distances, directions and lengths referred to in this Order are approximate.

(3) References in this Order to points identified by letters with or without numbers, are construed as references to points so lettered on the rights of way plans.

(4) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface.

(5) References in this Order to numbered plots are references to plot numbers on the land and works plans.

(6) References in this Order to points identified by letters and numbers are to be construed as references to points so shown on the rights of way plans.

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

3. The Council may construct and maintain—

(a) such works as are required within the Order limits—

- (i) to provide the public rights of way specified in column (4) of Schedule 2 (replacement and closure of level crossings) and column (4) of Part 1 (streets for which a substitute is to be provided) of Schedule 3 (streets to be stopped up) to the extent that they are not permitted by any of the planning permissions; and

⁽¹⁹⁾ Section 73 was amended by section 120 of, and paragraph 1 of Schedule 9 to, the Planning and Compulsory Purchase Act 2004 (c. 5) and section 14(4) of, and paragraph 4 of Schedule 3 to, the Neighbourhood Planning Act 2017 (c. 20). There are further amendments to section 73 which are not relevant to this Order.

⁽²⁰⁾ There are amendments to section 151 which are not relevant to this Order.

- (ii) to provide any temporarily diverted public rights of way required in connection with any exercise of the powers contained in article 9 (temporary stopping up and diversion of streets),
including works to lay out any footpaths, footways, bridleway and cycle tracks, including surfacing, fencing, stiles, gates, signs, ramps and steps and other means of access;
- (b) such works on the land numbered 115, 116, 117, 118, 119, 136, 137, 245, 246, 247, 310 and 311 as shown on the land and works plans as are required to provide parking bays for vehicles, including altering the layout of any adjacent street (provided that any works altering the layout of such streets can only be undertaken with the consent of the street authority); and
- (c) such works on the land specified in Schedule 7 (land of which temporary possession may be taken), Schedule 8 (land on which a temporary right of access may be exercised) and Schedule 9 (temporary worksites) as are required to—
 - (i) erect and construct temporary worksites, including lay down and storage areas, offices and other buildings, yards, slab, cranes, plant and machinery, apparatus, fencing, and other works and conveniences; and
 - (ii) provide temporary haul roads.

Supplemental powers

Power to survey and investigate land

- 4.—(1) The Council may, in connection with the development—
- (a) survey or investigate any land shown within the Order limits;
 - (b) without limitation on the scope of sub-paragraph (a), make excavations or trial holes and boreholes in such positions on the land as the Council thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
 - (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
 - (d) 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
 - (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).
- (2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice before the first day on which the Council intends to enter the land in exercise of the power conferred by paragraph (1) has been served on every owner and occupier of the land.
- (3) Notice given in accordance with paragraph (2) must—
- (a) include a statement of the recipient's rights under paragraph (6); and
 - (b) if the Council proposes to do any of the following, include details of what is proposed—
 - (i) searching, boring or excavating;
 - (ii) leaving apparatus on the land;
 - (iii) taking samples;
 - (iv) an aerial survey;

- (v) carrying out any other activities that may be required to facilitate compliance with the Conservation of Habitats and Species Regulations 2017(21).
- (4) Any person entering land under this article on behalf of the Council—
 - (a) must, if so required, before or after entering the land, produce written evidence of authority to do so; and
 - (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.
- (5) No trial holes are to be made under this article—
 - (a) in a carriageway or footway without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority,but such consent must not be unreasonably withheld.
- (6) The Council must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.
- (7) Section 13 (refusal to give possession to acquiring authority)(22) of the 1965 Act applies to entry onto land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 15(1) (application of Part 1 of the 1965 Act).

Discharge of water

- 5.—(1) The Council may use any watercourse or any public sewer or drain for the drainage of water in connection with the development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.
- (2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the Council under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers)(23) of the Water Industry Act 1991.
- (3) The Council must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose.
- (4) The Council must not make any opening into any public sewer or drain except—
 - (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.
- (5) The Council must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.
- (6) The Council must 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, oil or matter in suspension.

(21) S.I. 2017/1012.

(22) Section 13 was amended by sections 62(3) and 139 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).

(23) 1991 c. 56. Section 106 was amended by sections 35(8), 43(2) and 56(7) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), section 99 of the Water Act 2003 (c. 37), and section 32 of, and paragraph 16(1) of Schedule 3 to, the Flood and Water Management Act 2010 (c. 29).

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit)(24) of the Environmental Permitting (England and Wales) Regulations 2016.

(8) 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, or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(25) have the same meaning as in that Act.

Felling or lopping of trees

6.—(1) The Council may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if the Council reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the development or any apparatus used in connection with the development; or
- (b) from constituting a danger to persons using the development.

(2) In carrying out any activity authorised by paragraph (1), the Council must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from the exercise of those powers.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

PART 3

CROSSINGS AND HIGHWAYS

Closure of level crossings subject to opening of new rights of way

7.—(1) Subject to paragraphs (3) and (5), each of the level crossings specified in columns (1) and (2) of Schedule 2 (replacement and closure of level crossings) are stopped up and discontinued.

(2) Subject to paragraph (3) and (5) and Part 1 of Schedule 10 (protective provisions), upon the stopping up and discontinuance of each of the level crossings referred to in paragraph (1)—

- (a) the highway specified in relation to that level crossing in column (3) of Schedule 2 is stopped up and extinguished to the extent specified in column (3); and
- (b) any rights of way over those crossings are extinguished.

(3) No level crossing or highway specified in columns (2) or (3) of Schedule 2 is to be extinguished, stopped up or discontinued under this article until the new highway specified in relation to it in column (4) of that Schedule has been completed to the reasonable satisfaction of the highway authority and is open for use.

(4) 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, as if it were a dispute under Part 1 of the 1961 Act.

(24) S.I. 2016/1154. There are amendments to regulation 12 which are not relevant to this Order.

(25) 1991 c. 57.

(5) This article is subject to paragraph 2 of Schedule 10 (provisions relating to statutory undertakers etc.) to this Order.

Stopping up of streets

8.—(1) Subject to the provisions of this article, the Council may stop up each of the streets specified in column (2) of Parts 1 and 2 of Schedule 3 (streets to be stopped up) to the extent specified in column (3) of that Part of that Schedule.

(2) No street specified in column (2) of Part 1 of Schedule 3 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be created and substituted for it, which is specified in column (4) of that Part 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 users who could have used the street to be stopped up is first provided between the commencement and termination points for the stopping up of the street and subsequently maintained by the Council, to the reasonable satisfaction of the street authority, until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 3 to this Order (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the highway to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the Council is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the Council may appropriate and use for the purpose of the development so much of the site of the street as is bounded on both sides by land owned by the Council or Network Rail.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(7) This article is subject to paragraph 2 of Schedule 10 (provisions relating to statutory undertakers etc.) to this Order.

Temporary stopping up and diversion of streets

9.—(1) The Council, during and for the purposes of the construction of the development, may temporarily stop up or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the Council may use any street stopped up under the powers conferred by this article within the Order limits as a temporary working site.

(3) The Council must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up or diversion of a street under this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), the Council may temporarily stop up or divert the streets specified in columns (1) and (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the rights of way plans, in column (3) of that Schedule.

(5) The Council must not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

Creation and maintenance of new highways

10.—(1) On completion of each highway specified in column (4) of Schedule 2 (replacement and closure of level crossings) and column (4) of Part 1 of Schedule 3 (streets to be stopped up) to the reasonable satisfaction of the highway authority, that highway is to have the designation specified in column (4) of Schedule 2 and column (4) of Part 1 of Schedule 3, as the case may be.

(2) Section 28 (compensation for loss caused by public path creation order)(**26**) of the 1980 Act is to apply to each new footpath or bridleway specified in column (4) of Part 1 of Schedule 3 as if the footpath or bridleway had been created by a public path creation order.

(3) The application of section 28 of the 1980 Act, as applied by paragraph (2), has effect with the following modifications—

- (a) in subsection (1), substitute “Northumberland County Council” for “the authority by whom the Order was made”;
- (b) for subsection (2), substitute—

“(2) A claim for compensation under this section shall be made to Northumberland County Council in writing within six months from the coming into force of the Northumberland Line Order 2022 and is to be served on Northumberland County Council by delivering it at, or by sending it by pre-paid post to the registered office of Northumberland County Council”; and

- (c) subsection (3) is omitted.

(4) For the purposes of paragraphs (2) and (3), section 307 (disputes as to compensation which are to be determined by Upper Tribunal and related provisions)(**27**) of the 1980 Act, in its application to section 28 by virtue of subsection (1), is to have effect as if in subsection (2) for “the authority from whom the compensation in question is claimed”, the words “Northumberland County Council” are substituted.

(5) In any action against the Council in respect of loss or damage resulting from any failure by it to maintain a highway created under this Order, it is a defence (without affecting any other defence or the application of the law relating to contributory negligence) to prove that the Council

(26) Section 28 was amended by [S.I. 2007/1177](#).

(27) Subsections (1) and (2) were amended by section 84(6) of and Part 5 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34), and [S.I. 2009/1307](#).

had taken such care as in all the circumstances was reasonably required to secure that the part of the new highway to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the new highway and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a highway 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 highway;
- (d) whether the Council knew, or could reasonably have been expected to know, that the condition of the part of the new highway to which the action relates was likely to cause danger to users of the new highway; and
- (e) where the Council could not reasonably have been expected to repair that part of the new highway 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 the Council had arranged for a competent person to carry out or supervise the maintenance of the part of the new highway to which the action relates unless it is also proved that the Council had given the competent person proper instructions with regard to the maintenance of the new highway and that the competent person had carried out those instructions.

(7) This article does not apply in relation to the structure of any bridge or underpass carrying a highway created under this Order over or under the railway.

Access to works

11. The Council may in connection with the development—

- (a) form and lay out means of access, or alter or improve existing means of access, at the locations marked with an “A” on the land and works plans; and
- (b) with the approval of the highway authority, form and lay out such other means of access or alter or improve existing means of access at such locations within the Order limits as the Council reasonably requires for the purposes of the development.

Power to execute street works

12.—(1) The Council may, in connection with the development, enter on so much of any street and may—

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

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (street, street works and undertakers) and 51(1) of the 1991 Act (prohibition of unauthorised street works).

(3) The Council must not construct works under paragraph (1) without the consent of the street authority, which may attach reasonable conditions to any consent.

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Agreements with street authorities

13.—(1) A street authority may enter into an agreement or agreements with the Council with respect to—

- (a) the execution in the street of any of the works under article 3 (power to construct and maintain works);
 - (b) the construction of any new public right of way or street under the powers conferred by this Order and the maintenance of such a new right of way or street; or
 - (c) any stopping up, alteration or diversion of any right of way or street under the powers conferred by this Order and the maintenance of any such altered or diverted right of way or street.
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) specify the mechanism by which detailed design for works must be approved by the highway authority before works are implemented;
 - (c) specify the mechanism by which information regarding any new street can be provided to the street authority to enable modification of the definitive map and statement as defined in section 53(1) (duty to keep definitive map and statement under continuous review)⁽²⁸⁾ of the Wildlife and Countryside Act 1981; and
 - (d) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

14.—(1) The Council may acquire compulsorily so much of the land shown on the land and works plans and described in the book of reference as may be required for the purposes of the development and may use any land so acquired for those purposes, or for any other purposes that are ancillary to Network Rail’s railway undertaking.

(2) This article is subject to article 17 (power to acquire new rights), article 19 (temporary use of land in connection with the development) and article 25 (time limit for exercise of powers of acquisition and temporary use of land) and does not apply to any land that is subject to article 20 (temporary use of land for access).

⁽²⁸⁾ 1981 c. 69. Section 53(1) was amended by section 51 of, and paragraph 1(2) of Schedule 5 to, the Countryside and Rights of Way Act 2000 (c. 37).

Application of Part 1 of the 1965 Act

15.—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981⁽²⁹⁾ applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as applied by paragraph (1), has effect subject to the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1) (extension of time limit during challenge)⁽³⁰⁾ for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 2022”.

(5) In section 11(1B) (powers of entry)⁽³¹⁾ in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A (powers of entry: further notices of entry)⁽³²⁾—

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(7) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 2022”.

(8) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)⁽³³⁾—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 18 (power to acquire subsoil or airspace only) of the Northumberland Line Order 2022, which excludes the acquisition of subsoil or airspace only from this Schedule.”; and

(b) after paragraph 29 insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 19 (temporary use of land in connection with the development) of the Northumberland Line Order 2022 (temporary use of land in connection with the development).”.

⁽²⁹⁾ 1981 c. 67.

⁽³⁰⁾ Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

⁽³¹⁾ Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016.

⁽³²⁾ Section 11A was inserted by 186(3) of the Housing and Planning Act 2016.

⁽³³⁾ Schedule 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016.

Application of the 1981 Act

- 16.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (4) Omit section 5A (time limit for general vesting declaration)(34).
- (5) In section 5B (extension of time limit during challenge)(35) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 2022”.
- (6) In section 6 (notices after execution of declaration)(36), in subsection (1)(b), for “section 5 of, or paragraph 6 of Schedule 1 to the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.
- (7) In section 7 (constructive notice to treat)(37), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(38), for paragraph 1(2) substitute—
- “(2) But see article 18 (power to acquire subsoil or airspace only) of the Northumberland Line Order 2022, which excludes the acquisition of subsoil or airspace only from this Schedule.”.
- (9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 14 (power to acquire land) by article 15 (application of Part 1 of the 1965 Act).

Power to acquire new rights

- 17.—(1) Subject to paragraph (2), the Council may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 14 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.
- (2) In the case of the land specified in columns (1) and (2) of Schedule 5 (land in which only new rights etc., may be acquired) the Council’s powers of compulsory acquisition under article 14 (power to acquire land) are limited to the acquisition of such new rights as may be required for the purposes specified in relation to that land in column (3) of that Schedule.
- (3) Subject to Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the Council acquires a right over land under paragraphs (1) or (2) the Council is not required to acquire a greater interest in that land.
- (4) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

(34) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.

(35) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.

(36) Section 6 was amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(37) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016.

(38) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016.

Power to acquire subsoil or airspace only

18.—(1) The Council may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in article 14(1) (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the Council acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), the Council is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act (as modified by article 15 (application of Part 1 of the 1965 Act)) or Schedule A1 to the 1981 Act (as modified by article 16 (application of the 1981 Act)) from applying where the Council acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Temporary possession or use of land

Temporary use of land in connection with the development

19.—(1) The Council may, in connection with the development, enter upon and take temporary possession of—

- (a) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purposes specified in relation to the land in column (3) of that Schedule; and
- (b) subject to paragraph (11), any other land within the Order limits (excluding the land specified in Schedule 8 (land on which temporary rights of access may be exercised)) in respect of which no notice of entry has been served under section 11 (powers of entry)⁽³⁹⁾ of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act.

(2) Not less than 14 days before entering upon and taking temporary possession of land under this article the Council must serve notice of the intended entry on the owners and occupiers of the land.

(3) The Council may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the works for the purposes of which temporary possession of that land was taken.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Council must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(5) The Council must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.

(7) Without affecting article 35 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection)⁽⁴⁰⁾ of the 1965 Act or under any other enactment in respect of loss or damage for which compensation is payable under paragraph (5).

⁽³⁹⁾ 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.

⁽⁴⁰⁾ Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

(8) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1)(a) except that the Council is not precluded from acquiring any part of the subsoil of (or rights in the subsoil of or airspace over) that land under article 18 (power to acquire subsoil or airspace only).

(9) Where the Council takes possession of land under this article, it is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 15(1) (application of Part 1 of the 1965 Act).

(11) Paragraph (1)(b) does not authorise the Council to take temporary possession of any land which it is not authorised to acquire under articles 14 (power to acquire land) or 17 (power to acquire new rights).

(12) The provisions of the Neighbourhood Planning Act 2017(41), insofar as they relate to temporary possession or use of land under this article, do not apply to anything done in connection with the development or the exercise of any powers under this Order.

Temporary use of land for access

20.—(1) The Council may use any land specified in Schedule 8 (land on which a temporary right of access may be exercised) for the passage of persons or vehicles (with or without materials, plant and machinery) in connection with the development.

(2) The power under paragraph (1) is exercisable on giving at least seven days' notice (or, where access is urgently required, such notice as is reasonably practicable) to the owners and occupiers of the land.

(3) But paragraph (2) does not require notice to be given in relation to land where notice under that paragraph has already been given in relation to that land.

(4) The Council must pay compensation to the owners and occupiers of the land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.

(5) Any dispute as to a person's entitlement to compensation under paragraph (4), or as to the amount of such compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.

(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 15(1) (application of Part 1 of the 1965 Act).

(7) The provisions of the Neighbourhood Planning Act 2017, insofar as they relate to temporary use of land under this article, do not apply to anything done in connection with the development or the exercise of any powers under this Order.

Compensation

Disregard of certain interests and improvements

21.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

(41) 2017 c. 20.

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

22.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of any part of the development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 17 (power to acquire new rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to such person by reason of the construction of any part of the development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Extinction or suspension of private rights of way

23.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the Council, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Council under section 11(1) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) Subject to the provisions of this article, all private rights over land owned by the Council and Network Rail which, being within the Order limits, is required for the purposes of the development are extinguished on the appropriation of the land for any of those purposes by the Council or Network Rail.

(3) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of the acquisition of the right by the Council, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Council under section 11(1) of the 1965 Act; or
- (c) on the commencement of any activity authorised by this Order which interferes with or breaches those rights,

whichever is the sooner.

(4) Subject to the provisions of this article, all private rights over land of which the Council takes temporary possession under this Order are suspended and unenforceable for as long as the Council remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of telecommunications code system operators: preliminary notices) of the 1990 Act or paragraph 2 of Part 1 of Schedule 10 (provisions relating to statutory undertakers etc.) applies.

(7) Paragraphs (1), (2), (3) and (4) have effect subject to—

(a) any notice given by the Council before—

- (i) the completion of the acquisition of the land or the acquisition of the rights over or affecting the land;
- (ii) the Council's appropriation of it;
- (iii) the Council's entry onto it; or
- (iv) the Council taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made at any time between the Council or Network Rail and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is mentioned in sub-paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under the person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

Open space

24.—(1) As from the date on which the Council enters onto the open space land under section 11 (powers of entry) of the 1965 Act or section 8 (vesting, and right to enter and take possession) of the 1981 Act the open space land will be discharged from all rights, trusts and incidents to which it was previously subject.

(2) In this article “the open space land” means the land numbered 116 and 247 as shown on the land and works plans and forming part of an open space within the meaning of section 19(1) of the 1981 Act, which the Secretary of State has certified as not exceeding 209 square metres and that the giving in exchange of other land for the open space land is unnecessary for the purposes of section 19(1) of the 1981 Act.

Time limit for exercise of powers of acquisition and temporary use of land

25.—(1) After the end of the period of five years beginning on the day on which this Order comes into force—

(a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 15 (application of part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 16 (application of the 1981 Act).

(2) The powers conferred by articles 19 (temporary use of land in connection with the development) and 20 (temporary use of land for access) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Council remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

PART 5

MISCELLANEOUS AND GENERAL

Planning permission

26. Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to the works mentioned in articles 3(b) (power to construct and maintain works) and 11 (means of access) is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land of the purposes of that Act) of that Act.

Power to transfer undertaking

27.—(1) Subject to paragraph (4), the Council may, with the consent of the Secretary of State—

- (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 Council and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the Council 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 Council, 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 Council.

(4) The consent of the Secretary of State is not required for a transfer or grant under this article where such transfer or grant is to Network Rail in accordance with an agreement made under article 28 (agreements with Network Rail).

Agreements with Network Rail

28.—(1) The Council and Network Rail may enter into and carry into effect agreements with respect to the development.

(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 the development by the Council or by Network Rail or by the Council and Network Rail jointly;
- (b) for the exercise by Network Rail, or by the Council, or by Network Rail and the Council jointly, of all or any of the powers and rights of Network Rail and the Council (as the case may be) in respect of any part of the development; and

- (c) without limitation on the scope of sub-paragraph (b), for the exercise by Network Rail, or by Network Rail and the Council jointly, of all or any of the powers under this Order for, or relating to, the compulsory acquisition, or the temporary possession or use, of any land or rights over land.

(3) The exercise by the Council or Network Rail or by the Council 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 Council 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 Council or Network Rail or by the Council and Network Rail jointly, as the case may be.

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

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

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

Defence to proceedings in respect of statutory nuisance

29.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisance)⁽⁴²⁾ of the Environmental Protection Act 1990 in relation to a nuisance falling within section 79(1)(g) or 79(1)(ga) (statutory nuisances and inspections therefor)⁽⁴³⁾ of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows—

- (a) that the nuisance relates to premises used by the Council or Network Rail for or in connection with the construction or maintenance of the development and that the nuisance is attributable to the carrying out of the development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites ⁽⁴⁴⁾), of the Control of Pollution Act 1974; or
- (b) that the nuisance is a consequence of the construction, operation or maintenance of the development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974, does not apply where the consent relates to the use of premises by the Council or Network Rail for the purposes of or in connection with the construction or maintenance of the development.

(3) In proceedings for an offence under section 80(4) (summary proceedings for statutory nuisances) of the Environmental Protection Act 1990 in respect of a statutory nuisance falling within section 79(1)(g) or 79(1)(ga) of that Act where the offence consists of contravening requirements imposed by virtue of section 80(1)(a) or (b)⁽⁴⁵⁾ of that Act, it is a defence to show that the nuisance—

- (a) is a consequence of the construction, operation or maintenance of the development; and
- (b) cannot reasonably be avoided.

⁽⁴²⁾ 1990 c. 43.

⁽⁴³⁾ Section 79(1)(ga) was inserted by section 2(2)(b) of the Noise and Statutory Nuisance Act 1993 (c. 40).

⁽⁴⁴⁾ 1974 c. 40.

⁽⁴⁵⁾ Section 80(1) was amended by section 86 of the Clean Neighbourhoods and Environment Act 2005.

(4) The provisions of this article do not affect the application to the development of section 122 (statutory authority as a defence to actions in nuisance, etc.)⁽⁴⁶⁾ of the Railways Act 1993 or any rule of common law having similar effect.

Protection of interests

30. Schedule 10 (protective provisions) has effect.

Consents, agreement, certifications and approvals

31.—(1) Where any application is made to a relevant authority under this Order, the consent, agreement, certification or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) If a relevant authority which has received an application fails to notify the Council of its decision before the end of the period of 28 days beginning with the date on which the application was received, the relevant authority is deemed to have given its consent, agreement, certification or approval, as the case may be.

(3) Any application to which this article applies must include a written statement that the provisions of paragraph (2) apply to that application.

(4) Where any application is made to a relevant authority and the application includes submissions relating to the discharge of an obligation under Schedule 10 (protective provisions) at the same time, paragraph (2) does not apply to that application.

(5) In this article—

“application” means an application or request for any consent, agreement, certification or approval required or contemplated by articles 3 (power to construct and maintain works), 4 (power to survey and investigate land), 5 (discharge of water), 9 (temporary stopping up and diversion of streets), 10 (creation and maintenance of new highways), 11 (access to works) and 12 (power to execute street works); and

“relevant authority” means a highway authority, a street authority or an owner of a public sewer or drain as defined in article 5(8)(a) (discharge of water).

Amendment of local legislation

32.—(1) The following provisions do not apply to the railway following this Order coming into force where they limit or have the effect of limiting the level of tolls, fares or any other charges that can be levied in connection with the operation and use of the railway—

- (a) sections 51 to 67 of the Blyth and Tyne Railway Consolidation and Extensions Act 1854;
- (b) sections 22 to 23 of the Blyth and Tyne Railway Amendment Act 1857;
- (c) section 24 of the Blyth and Tyne Railway Amendment Act 1861;
- (d) section 11 of the Blyth and Tyne Railway Act 1872; and
- (e) section 6 of the North Eastern Railway Act 1902.

(2) In addition to the provisions identified in paragraph (1), any provision of any other enactment of local application relating to the railway, which limits or has the effect of limiting the level of tolls, fares or any other charges that can be levied in connection with the operation and use of the railway, does not apply to the railway following this Order coming into force.

⁽⁴⁶⁾ 1993 c. 43.

Certification of plans, etc.

33. The Council must, as soon as practicable after the making of this Order, submit copies of the book of reference, the land and works plans and the rights of way plans to the Secretary of State for certification that they are, respectively, true copies of the book of reference, the land and works plans and the rights of way plans referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

34.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post)⁽⁴⁷⁾ of the Interpretation Act 1978 as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

⁽⁴⁷⁾ 1978 c. 30.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

No double recovery

35. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

36. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State

11th July 2022

Natasha Kopala
Head of Transport Infrastructure Planning Unit
Department for Transport