STATUTORY INSTRUMENTS

2022 No. 934

The A428 Black Cat to Caxton Gibbet Development Consent Order 2022

PART 5

POWERS OF ACQUISITION AND POSSESSION OF LAND

Rights under or over streets

36.—(1) Provided that it has given the street authority for the street in question at least 28 days' prior notice (or such shorter period as the street authority may agree), the undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

　(a) any subway or underground building; or

　(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is a statutory undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Commencement Information

I1　Art. 36 in force at 8.9.2022, see **art. 1**