
STATUTORY INSTRUMENTS

2005 No. 8

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The East Midlands Parkway Station
(Land Acquisition) Order 2005

Made - - - - 7th January 2005

Coming into force - - 28th January 2005

Whereas an application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000⁽¹⁾ made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992⁽²⁾ (“the 1992 Act”), for an Order under sections 1 and 5 of the 1992 Act;

And whereas the Secretary of State caused an inquiry to be held for the purposes of the application pursuant to section 11 of the 1992 Act;

And whereas the Secretary of State, having considered the report of the person who held the inquiry, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 31st December 2004;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 3 to 5, 7, 11 and 15 of Schedule 1 to, the 1992 Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the East Midlands Parkway Station (Land Acquisition) Order 2005 and shall come into force on 28th January 2005.

(1) S.I. 2000/2910.
(2) 1992 c. 42.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961⁽³⁾;

“the 1965 Act” means the Compulsory Purchase Act 1965⁽⁴⁾;

“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;

“the Company” means Midland Main Line Limited whose registered office is at 75 Davies Street, London W1K 5HT;

“the East Midlands Parkway Station” means the new Parkway railway station with parking and associated access and highway works to be constructed on the land shown on the land plan;

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

“the limits of land to be acquired” means the lines marked “Limit of Land to be Acquired” shown on the land plan;

“the limits of land to be temporarily used” means the lines marked “Limit of Land to be Temporarily used” shown on the land plan;

“occupier” means a person occupying land under a tenancy for a period of more than a month (not being a statutory tenant within the meaning of the Rent Act 1977⁽⁵⁾ or the Rent (Agriculture) Act 1976⁽⁶⁾);

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“the Planning Act” means the Town and Country Planning Act 1990⁽⁷⁾;

“the Street Works Act” means the New Roads and Street Works Act 1991⁽⁸⁾;

“the tribunal” means the Lands Tribunal.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the air-space over its surface.

(3) All measurements stated in any description of lands in the book of reference shall be construed as if the words “or thereabouts” were inserted after each measurement.

(3) 1961 c. 33.
(4) 1965 c. 56.
(5) 1977 c. 42.
(6) 1976 c. 80.
(7) 1990 c. 8.
(8) 1991 c. 22.

PART 2

ACQUISITION AND POSSESSION OF LAND

Powers of Acquisition

Power to acquire land

3.—(1) The Company may acquire compulsorily so much of the land shown on the land plan within the limits of land to be acquired and described in the book of reference as may be required for or in connection with the provision of the East Midlands Parkway Station and it may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its railway undertaking.

(2) This article is subject to article 6(8).

Application of Part I of the Compulsory Purchase Act 1965

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(9) applies, and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part I of the 1965 Act, as so applied, shall have effect as if —

- (a) section 4 (which provides a time limit for compulsory purchase of land) and paragraph 3(3) of Schedule 3 (which makes provision as to the giving of bonds) were omitted, and
- (b) in section 11(1) (which confers power to enter on and to take possession of land subject to a notice to treat on giving not less than 14 days' notice) for the reference to 14 days' notice there were substituted—
 - (i) in a case where the notice to treat relates only to the acquisition of an easement or other right over the land, a reference to notice of one month, or
 - (ii) in any other case, a reference to notice of 3 months.

Powers to acquire new rights

5.—(1) The Company may compulsorily acquire such easements or other rights over any land referred to in paragraph (1) of article 3 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) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 1 to this Order), where the Company acquires a right over land under paragraph (1) it shall not be required to acquire a greater interest in it.

(3) Schedule 1 to this Order shall have 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 article of a right over land by the creation of a new right.

Temporary use of land

6.—(1) The Company may, in connection with provision of the East Midlands Parkway Station—

(9) 1981 c. 67.

- (a) enter upon and take temporary possession of so much of the land shown on the land plan within the limits of land to be temporarily used and described in the book of reference as may be required for the purposes of the provision of a working site storage for materials and equipment and access for construction purposes, and
 - (b) remove any buildings and vegetation from that land.
- (2) Not less than 28 days before entering upon and taking temporary possession of land under this article the Company shall serve notice of the intended entry on the owners and occupiers of the land.
- (3) The Company 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 East Midlands Parkway Station.
- (4) Before giving up possession of land of which temporary possession has been taken under this article, the Company shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Company shall not be required to replace a building removed under this article.
- (5) The Company shall 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, shall be determined under Part I of the 1961 Act.
- (7) Without prejudice to article 16, nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (5).
- (8) The powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the land referred to in paragraph (1) except that the Company shall not be precluded from acquiring new rights over any part of that land under article 5.
- (9) Where the Company takes possession of land under this article, it shall not be required to acquire the land or any interest in it.
- (10) In this article "building" includes structure or any other erection.

Compensation

Disregard of certain interests and improvements

7.—(1) In assessing the compensation (if any) payable to any person on the acquisition from him of any land under this Order, the tribunal shall 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,

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 he is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Supplementary

Acquisition of part of certain properties

8.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 4) in any case where—

(a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”), and

(b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Company a counter-notice objecting to the sale of the land subject to the notice to treat and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the Company agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

(a) without material detriment to the remainder of the land subject to the counter-notice, or

(b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

(a) without material detriment to the remainder of the land subject to the counter-notice, or

(b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

(a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice, but

(b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the Company agrees to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Company is authorised to acquire compulsorily under this Order.

(9) In any case where by virtue of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Company may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and if it does so shall pay the owner compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or factory or of land consisting of a house with a park or garden, the Company shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.

Extinction or suspension of rights affecting land

9.—(1) All private rights, easements, covenants and licences over land subject to compulsory acquisition under this Order shall be extinguished—

(a) as from the acquisition of the land by the Company, whether compulsorily or by agreement, or

(b) on the entry on the land by the Company under section 11(1) of the 1965 Act, whichever is sooner.

(2) All private rights, easements, covenants and licences over land of which the Company takes temporary possession under this Order shall be suspended and unenforceable for as long as the Company remains in lawful possession of the land.

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

(4) This article does not apply in relation to any right of way to which section 271 or 272 of the Planning Act (extinguishment of rights of statutory undertakers etc.) applies.

Time limit for exercise of powers of acquisition

10.—(1) No notice to treat shall be served under Part I of the 1965 Act as applied to the acquisition of land by article 4 after the end of the period of 5 years beginning with the day on which this Order comes into force.

(2) The powers conferred by article 6 shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent the Company remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

Acquisition: supplementary matters

11.—(1) Parts II and III of Schedule 2 to the Acquisition of Land Act 1981⁽¹⁰⁾ (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) shall have effect in relation to land to which article 3 applies as if it were

(10) 1981 c. 67.

comprised in a compulsory purchase order providing for the incorporation with that order of those parts of that Schedule.

(2) In their application by virtue of paragraph (1), Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 shall have effect as if references in those Parts to “the undertaking” were references to the Company’s railway undertaking.

PART 3

MISCELLANEOUS AND GENERAL

Transfer of functions under Order

12.—(1) In this article—

“functions” includes powers, duties and obligations;

“transferee” means a person to whom all or any of the property or functions of the Company have been transferred by virtue of a transfer agreement; and

“transfer agreement” means an agreement entered into under paragraphs (2) or (3).

(2) The Company may enter into and carry into effect an agreement to sell, lease, charge, or otherwise dispose of, on such terms and conditions as it thinks fit, the whole or any part of any land held by the Company for the purpose of, or in connection with, the East Midlands Parkway Station.

(3) The Company may, with the consent of the Secretary of State, enter into and carry into effect an agreement with any other person with respect to the transfer of all or any of its functions under this Order, either unconditionally or subject to such conditions or upon the happening of such events as may be specified in the agreement.

(4) Any agreement or undertaking entered into by the Company in connection with the promotion of this Order shall, so far as relevant to any functions under this Order exercisable by the transferee under a transfer agreement, be binding on the transferee, and the exercise of the powers of any enactment including all or any part of the rights and powers conferred on the Company by or under this Order by any person in pursuance of a transfer agreement shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those rights and powers were exercised by the Company.

(5) Where a transfer agreement is entered into references in this Order to the Company shall, to such extent and for such purposes as the agreement so provides, have effect as references to the transferee.

(6) A transfer agreement may confer on the transferee the power of the Company to enter into a transfer agreement under this article in respect of any functions or property transferred to the transferee, and the provisions of this article shall apply in relation to the exercise of such power by such transferee as if references to the Company were references to the transferee.

Statutory undertakers etc.

13. The provisions of Schedule 2 to this Order shall have effect.

Certification of plan etc.

14. The Company shall, as soon as practicable after the making of this Order, submit copies of the book of reference and the land plan to the Secretary of State for certification that they are true copies of, respectively, the book of reference and land plan referred to in this Order; and a document

so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

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

(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 of the Interpretation Act 1978⁽¹¹⁾ as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he 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, his last known address 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 his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him 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) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

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

PART 4

Protection for Network Rail

17.—(1) For the protection of Network Rail the following provisions shall, unless otherwise agreed in writing between the Company and Network Rail for the purposes of this article, apply and have effect.

(2) In this article—

“railway property” means any railway of Network Rail, and any works, apparatus and equipment of Network Rail connected therewith and includes any lands held or used by Network Rail for the purposes of such railway or works, apparatus and equipment; and

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes and for this purpose associated company means any company which is within the meaning of section 763

(11) 1978 c. 30.

of the Companies Act 1985(12) the holding company of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited.

(3) The Company shall not under the powers confirmed pursuant to this Order acquire or use or acquire new rights over any railway property unless such acquisition or use is with the consent of Network Rail.

(4) The Company shall not in the exercise of powers conferred by or under this Order prevent pedestrian or vehicular access to the railway property unless preventing such access is with the consent of Network Rail.

Signed by authority of the Secretary of State for Transport

Ellis Harvey
Head of the Transport and Works Act Orders
Unit,
Department for Transport

7th January 2005

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SCHEDULES

SCHEDULE 1

Article 5

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

Compensation enactments

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

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973⁽¹³⁾ shall have effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”, and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 —

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”,
- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”,
- (c) for the words “part proposed” there shall be substituted the words “right proposed”, and
- (d) for the words “part is” there shall be substituted the words “right is”.

Adaptation of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

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

(13) 1973 c. 26.

(2) Without prejudice to the generality of sub-paragraph (1), Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

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

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the person satisfies the tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the East Midlands Parkway Station (Land Acquisition) Order 2005 (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

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

- (a) section 9(4) (failure by owners to convey),
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity),

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- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

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

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 2

Article 13

PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.

Apparatus of statutory undertakers etc. on land acquired

1. Subject to the following provisions of this Schedule, sections 271 to 274 of the Planning Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the Company under this Order; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

2. In the provisions of the Planning Act, as applied by paragraph 1, references to the appropriate Minister are references to the Secretary of State.

3. Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the Planning Act, as applied by paragraph 1, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the Company compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

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4. Paragraph 3 shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

5. The provisions of the Planning Act mentioned in paragraph 1, as applied by that paragraph, shall not have effect in relation to apparatus as respects which Part III of the Street Works Act applies.

6. In this Schedule

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003⁽¹⁴⁾; and

“public utility undertakers” has the same meaning as in the Highways Act 1980⁽¹⁵⁾.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers powers on Midland Main Line Limited for the compulsory acquisition of land and rights over land, and for temporary use of land, in the Parish of Ratcliffe on Soar, in the Borough of Rushcliffe, Nottinghamshire, in connection with the provision of the proposed East Midlands Parkway Station. The Order does not authorise the construction of the station, parking facilities or any other development.

⁽¹⁴⁾ 2003 c. 21.

⁽¹⁵⁾ 1980 c. 66.