

## SCHEDULES

### SCHEDULE 22

Section 270.

#### STOPPING UP ORDERS BY LONDON COUNCILS

##### *Highways Act 1980*

- 1 (1) Section 125 of the Highways Act 1980 (further powers to stop up private access to premises) shall be amended as follows.
- (2) In subsection (1) after “Minister” there shall be inserted “or London Borough”.
- (3) In subsection (4) after “Minister” there shall be inserted “or, as the case may be, the council of a London borough”.

##### *Town and Country Planning Act 1990*

- 2 The Town and Country Planning Act 1990 shall be amended as follows.

##### *Highways affected by development: orders*

- 3 (1) Section 247 shall be amended as follows.
- (2) In subsection (1) (Secretary of State’s power to authorise stopping up or diversion of highway) after “highway” there shall be inserted “outside Greater London”.
- (3) In subsection (2) (Secretary of State’s power to provide or improve other highways) after “highway” there shall be inserted “outside Greater London”.
- (4) After subsection (2) there shall be inserted—
- “(2A) The council of a London borough may by order authorise the stopping up or diversion of any highway within the borough, or within another London borough if the council of that borough consents, if it is satisfied that it is necessary to do so in order to enable development to be carried out—
- (a) in accordance with planning permission granted under Part III, or
- (b) by a government department.
- (2B) Such an order may make such provision as appears to the council to be necessary or expedient for the provision or improvement of any other highway within the borough.”
- (5) In subsection (3) (orders directing that highway to be maintainable at public expense etc) for “Such an order” there shall be substituted “An order under subsection (1) or (2A)”.
- (6) After subsection (3) there shall be inserted—
- “(3A) An order under subsection (2A) may not provide that—
- (a) the Secretary of State,

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- (b) Transport for London, or
- (c) a London borough other than the one whose council is making the order,

shall be the highway authority for a highway unless the Secretary of State, Transport for London or the council, as the case may be, so consents.”

- (7) In subsection (4) (incidental provision in an order) after “Secretary of State” in both places where it occurs there shall be inserted “or the council of the London borough”.
- (8) In subsection (6)(a) (order making power to be without prejudice to other similar powers) after “Secretary of State” there shall be inserted “or a London borough”.

*Highways crossing or entering route of proposed new highway*

- 4 (1) Section 248 shall be amended as follows.
- (2) In subsection (2) (Secretary of State’s power to stop up or divert a highway affected by construction or improvement of another highway) after “applies” there shall be inserted “and the place where the other highway crosses or enters the route of the main highway or is otherwise affected is outside Greater London”.
- (3) After subsection (2) there shall be inserted—
  - “(2A) Where this section applies and the place where the other highway crosses or enters the route of the main highway or is otherwise affected is within a London borough, if it appears to the council of that borough expedient to do so—
    - (a) in the interests of the safety of users of the main highway; or
    - (b) to facilitate the movement of traffic on the main highway,
 it may by order authorise the stopping up or diversion of the other highway.”
- (4) In subsection (3) (application of section 247 to orders under section 248)—
  - (a) after “Subsections (2)” there shall be inserted “and (2B)”,
  - (b) for “subsection (2)” there shall be substituted “subsections (2) and (2B)”.

*Order extinguishing right to use vehicles on highway*

- 5 (1) Section 249 shall be amended as follows.
- (2) In subsection (1)(b) (cases where section 249 applies) after “trunk road” there shall be inserted “, a GLA road”.
- (3) At the beginning of subsection (2) (Secretary of State’s power to extinguish rights to use a highway affected by improvement of amenity of area) there shall be inserted “Where the public is to cease to have such a right of way at a place outside Greater London,”.
- (4) After subsection (2) there shall be inserted—
  - “(2A) Where—
    - (a) the public is to cease to have such a right of way at a place within a London borough, and
    - (b) the conditions mentioned in subsection (2B)(a) or (b) are satisfied,

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the council of that borough may by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.

(2B) The conditions are that—

- (a) the council is a local planning authority for the place where the right of way is to cease and it resolves that the right should be extinguished, or
- (b) another authority is a local planning authority for that place and, having resolved to do so, it applies to the council of the borough for the right to be extinguished.”

(5) In subsection (3) (power to provide for continuance of specified rights on highway where general right of use is extinguished)—

- (a) after “subsection (2)” there shall be inserted “or (2A)”, and
- (b) after “Secretary of State” there shall be inserted “or, as the case may be, the council of the London borough”.

(6) In subsection (5) (order under section 249 not to be prejudiced by any other enactment) after “subsection (2)” there shall be inserted “or (2A)”.

(7) In subsection (6) (revocation of order under section 249 upon application by local planning authority)—

- (a) after “subsection (2)” there shall be inserted “or (2A)”,
- (b) after “Secretary of State” there shall be inserted “or, as the case may be, the council of the borough”,
- (c) for “he” in the first place where it occurs there shall be substituted “the Secretary of State or council”, and
- (d) for “he does so” there shall be substituted “the order is revoked”.

(8) In subsection (8) (requirement for local planning authority to consult before applying for order to be revoked) after “subsection (2)” there shall be inserted “, (2A)”.

(9) In subsection (9) (application of section 247 to order made under section 249) after “subsection (2)” there shall be inserted “, (2B)”.

#### *Compensation for orders under section 249*

6 (1) Section 250 shall be amended as follows.

(2) In subsection (1) (right to compensation for those with an interest in land affected by an order under section 249) after “section 249(2)” there shall be inserted “or (2A)”.

#### *Procedure for making of orders*

7 (1) Section 252 shall be amended as follows.

(2) In subsection (1) (requirement to publicise proposals in certain newspapers)—

- (a) after “Secretary of State” in the first place where it occurs there shall be inserted “or, as the case may be, the council of a London borough”, and
- (b) after “Secretary of State” in the second place where it occurs there shall be inserted “or, as the case may be, the council of the London borough”.

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- (3) In subsection (2) (requirement to serve details of proposals on certain local and other authorities) after “Secretary of State” there shall be inserted “or, as the case may be, the council of the London borough”.
- (4) In subsection (3) (requirement to display details of proposals at highway concerned) after “Secretary of State” there shall be inserted “or, as the case may be, the council of the London borough”.
- (5) In subsection (4) (requirement to hold local inquiry if objection made)—
- (a) after “Secretary of State” in the first place where it occurs there shall be inserted “or, as the case may be, the council of the London borough,”
  - (b) for “him” there shall be substituted “to the Secretary of State or, as the case may be, the council
  - (c) for “unless subsection (5) applies the Secretary of State shall cause a local inquiry to be held” there shall be substituted—
    - “(a) in a case where the Secretary of State is proposing to make an order, he shall cause a local inquiry to be held unless subsection (5) applies, or
    - (b) in a case where the council of a London borough is proposing to make an order, it shall notify the Mayor of London of the objections and shall cause a local inquiry to be held unless subsection (5A) applies.”
- (6) In subsection (5) (power to dispense with local inquiry in certain circumstances) after “where” there shall be inserted “the Secretary of State is proposing to make an order and”.
- (7) After subsection (5) there shall be inserted—
- “(5A) In a case where—
- (a) the council of a London borough is proposing to make the order,
  - (b) the council has under subsection (4)(b) notified the Mayor of London of the objections, and
  - (c) none of the objections notified is made by such a local authority or undertakers or transporter as are mentioned in that subsection,
- the Mayor of London shall decide whether, in the special circumstances of the case, the holding of such an inquiry is unnecessary, and if he decides that it is unnecessary he shall so notify the council which may dispense with the inquiry.”
- (8) In subsection (6) (application of other statutory provisions to local inquiry held under section 252) after “Secretary of State” there shall be inserted “or the council of a London borough”.
- (9) After subsection (6) there shall be inserted—
- “(6A) In their application to an inquiry caused to be held by the council of a London borough—
- (a) subsection (4) of section 250 of the Local Government Act 1972 shall be treated as if—
    - (i) for the reference to a Minister there were substituted a reference to the council of a London borough,

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- (ii) for the reference to him there were substituted a reference to the council,
  - (iii) for the reference to he there were substituted a reference to the council acting with the consent of the Mayor of London, and
  - (iv) for the references to the Minister there were substituted references to the council of the London borough, and
- (b) subsection (5) of that section shall be treated as if—
- (i) for the reference to the Minister there were substituted a reference to the council of a London borough, and
  - (ii) the power to make an order as to the costs of parties were subject to a requirement to act with the consent of the Mayor of London.”
- (10) In subsection (8) (making of order) before “After” there shall be inserted “Where the Secretary of State is proposing to make an order.”
- (11) After subsection (8) there shall be inserted—
- “(8A) Where the council of a London borough is proposing to make an order, after—
- (a) considering any objections to the order which are not withdrawn, and
  - (b) where a local inquiry is held—
    - (i) considering the report of the person who held the inquiry, and
    - (ii) obtaining the consent of the Mayor of London to the making of the order,
- the council may, subject to subsection (9), make the order either without modification or subject to such modification as it thinks fit.”
- (12) In subsection (10) (requirement to publicise making of order) after “Secretary of State” there shall be inserted “or, as the case may be, the council of the London borough”.
- (13) After subsection (10) there shall be inserted—
- “(10A) Nothing in subsection (2) shall require the council of a London borough to serve anything on itself.”

*Procedure in anticipation of planning permission*

- 8 (1) Section 253 shall be amended as follows.
- (2) In subsection (1) (power to publish certain orders in draft before planning permissions making the orders necessary are granted)—
- (a) after “Secretary of State” in the first place where it occurs there shall be inserted “or the council of a London borough”, and
  - (b) after “Secretary of State” in the second place where it occurs there shall be inserted “or, as the case may be, the council of the London borough”.

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- (3) In subsection (5) (saving of restriction on power to make order until planning permission granted) after “Secretary of State” there shall be inserted “or the council of a London borough”.

*Temporary highway orders: mineral workings*

- 9 (1) Section 261 shall be amended as follows.
- (2) In subsection (1) (Secretary of State’s power to order stopping up or diversion of highway for working of minerals)—
- (a) after “Secretary of State” there shall be inserted “or the council of a London borough”, and
  - (b) after “him” there shall be inserted “or, as the case may be, the council”.
- (3) In subsection (3) (additional provision in order under section 261)—
- (a) for “or, as the case may be,” there shall be substituted “, the council of the London borough or”, and
  - (b) after “authority” there shall be inserted “(as the case may be)”.