

2002 No. 1327

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

**The Greater Manchester (Light Rapid Transit System)
(Trafford Depot) Order 2002**

Made - - - - - *10th May 2002*

Coming into force - - - *31st May 2002*

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

And whereas the Secretary of State, having considered the objections made and not withdrawn and the report of the person who held the inquiry, has determined to make an order giving effect to the proposals comprised in the application with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 the Secretary of State, is satisfied that the provision of an alternative right of way for the street mentioned in Schedule 3 to this Order is not required;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 12th April 2002;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1 to 4, 7 to 13 and 15 to 17 of Schedule 1 to, the 1992 Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I PRELIMINARY

Citation and commencement

1. This Order may be cited as the Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 and shall come into force on 31st May 2002.

Interpretation

2.—(1) In this Order—

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

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

“the 1984 Act” means the Road Traffic Regulation Act 1984(e);

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

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

“the 1992 Act” means the Transport and Works Act 1992;

“authorised works” means the scheduled works and any other works authorised by this Order;

“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;

“carriageway” has the same meaning as in the Highways Act 1980(h);

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

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

“the limits of deviation” means the limits of lateral deviation for the scheduled works mentioned in article 5(1)(a);

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

(a) S.I. 2000/2190.

(b) 1992 c. 42 as amended by S.I. 1995/1541 and S.I. 1998/2226.

(c) 1961 c. 33.

(d) 1965 c. 56.

(e) 1984 c. 27.

(f) 1990 c. 8.

(g) 1991 c. 22.

(h) 1980 c. 66.

“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 scheduled works” means the works specified in Schedule 1 to this Order or any part of them;

“the sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part III of the 1991 Act;

“street tramway” means any part of the transit system which is laid along a street—

(a) whether or not the section of the street in which its rails are laid, may be used by other traffic, and

(b) whether the uppermost surface of the rails is level with, or raised above, the surrounding surfaces of the street;

“the telecommunications code” means Schedule 2 to the Telecommunications Act 1984(a);

“tramcar” means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels along the rails of a transit system;

“tramroad” means any part of the transit system which is not a street tramway;

“transit system” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which—

(a) provide support and guidance for vehicles carried on flanged wheels, and

(b) are laid in part along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);

“the tribunal” means the Lands Tribunal;

“the undertaker” means Greater Manchester Passenger Transport Executive; and

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

(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) Any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(4) References in this Order to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the deposited plans.

(5) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

Application of the 1991 Act

3.—(1) Section 56 (directions as to timing) and section 58 (restrictions following substantial road works) of the 1991 Act shall not apply in relation to any works executed under the power of this Order.

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the undertaker under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act referred to in paragraph (2) are:—
section 54 (advance notice of certain works);

(a) 1984 c. 12.

section 55 (notice of starting date of works);
section 57 (notice of emergency works);
section 59 (general duty of street authority to co-ordinate works);
section 60 (general duty of undertakers to co-operate);
section 68 (facilities to be afforded to street authority);
section 69 (works likely to affect other apparatus in the street);
section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation);
section 77 (liability for cost of use of alternative route); and
all such other provisions as apply for the purposes of the provisions mentioned above.

PART II

WORKS PROVISIONS

Principal powers

Power to construct works

4.—(1) The undertaker may construct and maintain the scheduled works.

(2) Subject to article 5, the scheduled works may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

(3) Subject to paragraph (6), the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works, namely—

- (a) works required for the strengthening, improvement, repair or reconstruction of any street;
- (b) works required for, or in connection with the control of, any vehicular and pedestrian traffic;
- (c) works for the strengthening, alteration or demolition of any building or structure;
- (d) works to alter the position of any street furniture or apparatus, including mains, sewers, drains and cables and lights;
- (e) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (f) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works; and
- (g) facilities and works for the benefit or protection of land or premises affected by the authorised works.

(4) Subject to paragraph (6), the undertaker may carry out and maintain such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the scheduled works.

(5) The undertaker may remove any works constructed by it pursuant to this Order which have been constructed as temporary works or which it no longer requires.

(6) Paragraphs (3) and (4) shall only authorise the carrying out or maintenance of works within the limits of deviation shown on the works plans.

Power to deviate

5.—(1) In constructing or maintaining the scheduled works, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the works plans within the limits of deviation relating to that work shown on those plans; and
- (b) deviate vertically from the levels shown on the deposited sections—
 - (i) to any extent not exceeding 3 metres upwards; and
 - (ii) to any extent downwards.

(2) The undertaker may, in constructing and maintaining the scheduled works, provide within the limits of deviation for those works such number of lines of rails and sidings as may be necessary or expedient.

Designation of works

6.—(1) Notwithstanding anything in the description of scheduled works contained in Schedule 1 to this Order, the whole or any part of a scheduled work may be constructed within the limits of deviation for that work either along a street as a street tramway or off-street as a tramroad and shall be treated for the purposes of this Order as if it were so designated.

(2) Where, by means of the creation or extinction of rights of way, any part of the scheduled works which has been constructed as a tramroad becomes a street tramway or any part which has been constructed as a street tramway becomes a tramroad, it shall be treated for the purposes of this Order as if it were so designated.

Streets

Power to alter layout of streets

7.—(1) The undertaker may alter the layout of any street specified in column (2) of Schedule 2 to this Order in the manner specified in relation to that street in column (3) of that Schedule.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may for the purpose of constructing, maintaining or using any scheduled work alter the layout of any street within the limits of deviation and the layout of any street having a junction with such a street; and, without prejudice to the generality of the foregoing, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street;
- (d) carry out works for the provision or alteration of parking places and bus laybys;
- (e) carry out traffic calming works which are of a description prescribed in the Highways (Traffic Calming) Regulations 1999(a) and which are constructed in compliance with those Regulations;
- (f) carry out works to the carriageway of the street for the purpose of deterring or preventing vehicles other than tramcars from passing along the transit system; and
- (g) make and maintain crossovers, sidings or passing places.

(3) The powers in paragraph (2) shall not be exercised without the consent of the street authority, but such consent shall not be unreasonably withheld.

Power to keep apparatus in streets

8.—(1) The undertaker may, for the purposes of or in connection with the construction, maintenance and use of the authorised works, place and maintain in any street within the limits of deviation and in any street having a junction with such a street any work, equipment or apparatus including, without prejudice to the generality of the foregoing, foundations, road islands, substations, electric lines and any electrical or other apparatus.

(2) In this article—

- (a) “apparatus” has the same meaning as in Part III of the 1991 Act;
- (b) “electric line” has the meaning given by section 64(1) of the Electricity Act 1989(b); and
- (c) the reference to any work, equipment, apparatus or other thing in a street includes a reference to any work, equipment, apparatus or other thing under, over, along or upon the street.

(a) S.I. 1999/1026.

(b) 1989 c. 29.

Power to execute street works

9. The undertaker may, for the purpose of exercising the powers conferred by article 8 or any other provision of this Order, enter upon any street within the limits or deviation and any street having a junction with such a street and may execute any works required for or incidental to the exercise of those powers including, without prejudice to the generality of the foregoing, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street.

Stopping up of street

10—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised works, stop up the street specified in column (2) of Schedule 3 to this Order to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of that Schedule.

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

(3) This article is subject to paragraph 2 of Schedule 5 to this Order.

Access to works

11. The undertaker may, for the purposes of the scheduled works, form and lay out such means of access or improve such existing means of access, to streets within the limits of deviation, as may be approved by the highway authority, but such approval shall not be unreasonably withheld.

Agreements with street authorities

12.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the strengthening, or improvement of any street under the powers conferred by this Order;
- (b) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under a tramroad;
- (c) any stopping up or alteration of a street under the powers conferred by this Order; or
- (d) the execution in the street of any of the works referred to in article 9.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) provide for the street authority to carry out any function under this Order which relates to the street in question; and
- (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Supplemental

Discharge of water

13.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the limits of deviation, make openings into, and connections with, the watercourse, sewer or drain.

(2) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the authority to which it belongs; and such consent may be given subject to such terms and conditions as the authority may reasonably impose but shall not be unreasonably withheld.

(3) The undertaker shall not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the authority to which the sewer or drain belongs, but such approval shall not be unreasonably withheld.

(4) The undertaker shall 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.

(5) The undertaker shall 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 or oil or matter in suspension.

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991(a).

(7) 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,
- (b) “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and
- (c) other expressions used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Planning permission: supplementary matters

14.—(1) In relation to the application of paragraph (3)(c) of the Second Schedule of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Tree Preservation Order) Regulations 1969(b) (including that paragraph as applied by regulation 3(ii) of the Town and Country Planning (Tree Preservation Order) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975(c), or as incorporated in any tree preservation order), any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to works authorised by this Order shall be treated as deeming the permission to have been granted on application made under Part III of that Act for the purposes of that Part.

(2) In relation to the application of article 5(1)(d) of the Form of Tree Preservation Order set out in the Schedule to the Town and Country Planning (Trees) Regulations 1999(d) as incorporated in any tree preservation order or as having effect by virtue of regulation 10(1)(a) of those Regulations, any direction under section 90(2A) of the 1990 Act deeming planning permission to be granted in relation to the works authorised by this Order shall not be treated as an outline planning permission.

(3) Planning permission which is deemed by a direction under section 90(2A) of the 1990 Act to be granted in relation to works authorised by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Power to survey and investigate land, etc.

15.—(1) The undertaker may for the purposes of this Order—

- (a) survey or investigate any land within the limits of deviation;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out archaeological investigations on any such land;

(a) 1991 c. 57.

(b) S.I. 1969/17.

(c) S.I. 1975/148.

(d) S.I. 1999/1892.

- (d) place on, leave on and remove from the land apparatus for use in connection with the exercise of any of the powers conferred by sub-paragraph (a) to (c); and
- (e) enter on the land for the purpose of exercising any of 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 7 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, if so required, before or after entering the land produce written evidence of his authority to do so; and
- (b) may take with him such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes shall be made under this article in a carriageway or footway without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker shall make compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land, such compensation to be determined, in case of dispute, under Part I of the 1961 Act.

Mode of construction and operation of transit system

16.—(1) The transit system comprised in the authorised works shall be operated by electricity or, in an emergency or for the purposes of maintenance, by diesel power or other means.

(2) The transit system shall be constructed on a gauge of 1,435 millimetres.

Obstruction of construction of authorised works

17. Any person who, without reasonable excuse, obstructs another person from constructing any of the authorised works under the powers conferred by this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART III

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

18.—(1) The undertaker may acquire compulsorily so much of the land shown on the land plans within the limits of deviation for the scheduled works shown on those plans and described in the book of reference as may be required for or in connection with the authorised works and may use any land so acquired for those purposes or for any other purposes connected with or ancillary to its transit system undertaking.

(2) This article is subject to article 23(2).

Application of Part I of the Compulsory Purchase Act 1965

19.—(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(a) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(a) 1981 c. 67.

- (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 subsoil or the acquisition of an easement or other right over the land, a reference to a notice of one month; or
 - (ii) in any other case, a reference to notice of 3 months.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

20.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981^(a) shall apply as if this Order were a compulsory purchase order.

(2) In its application by virtue of paragraph (1), the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in the London Gazette and in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, subsections (5) and (6) shall be omitted and at the end there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion; or
- (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in the London Gazette or in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act shall be construed as references to that Act as applied to the acquisition of land under article 19.

Powers to acquire new rights

21.—(1) The undertaker may compulsorily acquire such easements or other rights over any land referred to in paragraph (1) of article 18 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 4 to this Order), where the undertaker acquires a right over land under paragraph (1) it shall not be required to acquire a greater interest in that land.

(a) 1981 c. 66.

(3) Schedule 4 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.

Powers to acquire subsoil only

22.—(1) The undertaker may compulsorily acquire so much of the subsoil of the land referred to in paragraph (1) of article 18 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 undertaker acquires any part of the subsoil of land under paragraph (1) the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 25 from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Rights under or over streets

23.—(1) The undertaker may enter upon and appropriate so much of the surface, subsoil of, or air-space over, any street shown on the land plans and described in the book of reference as may be required for the purposes of the authorised works and may use the surface, subsoil and air-space for those purposes or for any other purpose connected with or ancillary to its transit system undertaking.

(2) The power under paragraph (1) may be exercised in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street and except in relation to a street which is subject to stopping up pursuant to article 10, the powers of compulsory acquisition of land conferred by this Order shall not apply in relation to the street.

(3) 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 by the exercise of that power shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

(4) Paragraph (2) shall 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 on to the street.

Compensation

Disregard of certain interests and improvements

24.—(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

25.—(1) This article shall apply instead of section 8(1) of the 1965 Act (as applied by article 19) 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 undertaker 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 undertaker 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 undertaker 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) that 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 undertaker 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 undertaker 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 to 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 undertaker 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 private rights of way

26.—(1) All private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

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

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

(2) All private rights of way over land owned by the undertaker which is within the limits of land which may be acquired shown on the land plans and which is required for the purposes of this Order, shall be extinguished on the appropriation of the land for any of those purposes by the undertaker.

(3) All private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(5) This article does not apply in relation to any right of way to which section 271 or 272 of the 1990 Act (extinguishments of rights of statutory undertakers etc.) or paragraph 2 of Schedule 5 to this Order applies.

Time limit for exercise of powers of acquisition

27. The powers conferred by this Order to acquire land or rights over land compulsorily shall cease at the end of the period of five years beginning on the day on which this Order comes into force except to the extent that notice to treat has been served under Part I of the 1965 Act as applied by article 19 of this Order.

PART IV

MISCELLANEOUS AND GENERAL

Application of provisions of the 1996 Order

28. The following provisions of the Greater Manchester (Light Rapid Transit System) (Eccles Extension) Order 1996^(a) shall apply to the authorised transit system as they apply to the transit system authorised by that Order—

Article 20 (Power to construct temporary transit systems)

Article 35 (Power to operate and use transit system)

Article 36 (Maintenance of approved works, etc.)

Article 37 (Removal of obstructions)

Article 38 (Traffic signs)

Article 40 (Power to lop trees overhanging transit system)

Article 41 (Trespass on tramroads)

Article 42 (Power to make byelaws)

Article 43 (Power to contract for police services)

Article 44 (Powers of disposal, agreements for operation, etc.)

Article 45 (Application of landlord and tenant law)

(a) S.I. 1996/2714.

Article 46 (Jurisdiction of Rail Passengers' Committee)

Article 47 (Tramcars deemed public service vehicles)

Article 51 (For protection of Environment Agency).

Statutory undertakers, etc.

29. The provisions of Schedule 5 to this Order shall have effect.

For protection of BRB (Residuary) Limited

30.—(1) For the protection of BRB (Residuary) Limited (“the Company”) the following provisions shall, unless otherwise agreed in writing between the undertaker and the Company, have effect:—

(2) The undertaker shall not under the powers of the Order acquire any land or other property of the Company, or any right in such land or property, without the consent of the Company.

(3) Consent under paragraph (2) shall not be unreasonably withheld but may be given subject to reasonable conditions.

(4) Without prejudice to the generality of paragraph (3) the Company may make it a condition of any such consent that the undertaker shall acquire the entirety of the Company's interest in the former railway line from Old Trafford to Chorlton, Greater Manchester.

(5) All rights and obligations of the Company, whether statutory or otherwise, relating to any land of the Company which is transferred to the undertaker under the powers or in consequence of this Order shall be transferred to the undertaker to the exclusion of the Company on the date on which the undertaker enters upon that land.

Disclosure of confidential information

31. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 15; and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land.

Certification of plans, etc.

32. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the land plans, the works plans and the sections to the Secretary of State for certification that they are true copies of, respectively, the book of reference, plans and sections 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

33.—(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(a) 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

(a) 1978 c. 30.

(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

34. 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, or under two or more different provisions of this Order.

Arbitration

35. Unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall 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 notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport,
Local Government and the Regions

Ellis Harvey
Head of the Transport and Works Act
Processing Unit
Department for Transport, Local Government
and the Regions

10th May 2002

SCHEDULES

SCHEDULE 1

Articles 2(1) and 4

SCHEDULED WORKS

A servicing and maintenance depot in the Borough of Trafford including—

- Work No. 1— A tramroad 170 metres in length (single line) commencing at a junction with the Metrolink Altrincham Line 150 metres south west of the Trafford Bar Stop running in a south westerly direction before terminating at a point on Elsinore Road 345 metres south west of Skerton Road.
- Work No. 2— A tramroad 128 metres in length (single line) commencing at a junction with the Metrolink Airport Line at chainage 150 metres in Work No. 1 of the Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997 running in a south westerly direction before terminating at a point on Elsinore Road 260 metres south west of Skerton Road.
- Work No. 3— A tramroad 80 metres in length (single line) commencing at a junction with the Metrolink Altrincham Line 97 metres north east of Old Trafford Stop subway running in a north easterly direction before terminating at a point on Elsinore Road 160 metres north east of Ayres Road.
- Work No. 4— A tramroad 159 metres in length (single line) commencing at a junction with the Metrolink Airport Line at chainage 138 metres in Work No. 2 of the Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997(a) running in a northerly direction before terminating at a point 160 metres north of Ayres Road and at chainage 180 metres in Work No. 5.
- Work No. 5— A tramroad 968 metres in length (single line with multiple sidings) commencing at a point 40 metres south west of where Elsinore Road crosses a dismantled railway line and extending around the site joining with Works No's 1, 3, 4 and 6 before terminating at a point 95 metres south of the commencement point.
- Work No. 6— A tramroad 245 metres in length (single line) commencing at a junction with chainage point 623 metres of Work No. 5 running in a north easterly direction before terminating at a junction with chainage point 850 metres of Work No. 5.

(a) S.I. 1997/1266.

Key to Schedules 2 and 3

SS	Stopping up of street
W	Kerb line modification
TC	Traffic calming modification

SCHEDULE 2

Article 7

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Area</i>	<i>Street subject to alteration of layout</i>	<i>Description of alteration</i>
The Borough of Trafford	Junction of Ayres Road/ Elsinore Road	Reconfiguration of access and alteration of kerblines from W1 to W2
		Reconfiguration of access and alteration of kerblines from W3 to W4
	Ayres Road	Reconfiguration of access and alteration of kerblines from W5 to W6
		Traffic calming modifications from TC3 to TC4
	Elsinore Road	Reconfiguration of access and alteration of kerblines from W7 to W8
		Traffic calming modifications from TC1 to TC2
		Traffic calming modifications from TC5 to TC6
	Skerton Road	Traffic calming modifications from TC7 to TC8

SCHEDULE 3

Article 10

STREET TO BE STOPPED UP AND FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Area</i>	<i>Street to be stopped up</i>	<i>Extent of Stopping up</i>
The Borough of Trafford	Elsinore Road	Between points SS1 and SS2

**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 above, the Land Compensation Act 1973(a) 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 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.

(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

(a) 1973 c. 26.

- (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 Greater Manchester (Light Rapid Transit System) (Trafford Depot) Order 2002 (“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),
- (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 5

Articles 9, 10, 26 and 29

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc. on land acquired

1.—(1) Subject to the following provisions of this paragraph, sections 271 to 274 of the 1990 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 under this Order, or which is held by the undertaker and is appropriated or used (or about to be used) by it for the purposes of the Order or purposes connected therewith, 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 1990 Act, as applied by sub-paragraph (1) above, references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-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 undertaker 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.

(4) Sub-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 sub-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 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 or Part III of the 1991 Act applies.

(6) In this paragraph—

“public telecommunications operator” means—

- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984(a) applies, to run a public telecommunications system, or
- (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act, and

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

Apparatus of statutory undertakers, etc. in stopped up streets

2.—(1) Where a street is stopped up under article 10 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) The undertaker shall give not less than 28 days’ notice in writing of its intention to stop up any street under article 10 of this Order to any statutory utility whose apparatus is under, in, upon, over, along or across that street.

(3) Where notice under sub-paragraph (2) has been given, any statutory utility whose apparatus is under, in, upon, over, along or across the street may where reasonably necessary for the efficient operation of the undertaking of the statutory utility and, if reasonably requested so to do by the undertaker, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(4) Subject to the following provisions of this paragraph, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with:—

- (a) the execution of relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of relocation works.

(5) If in the course of the execution of relocation works under sub-paragraph (3)—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions except where this has been solely due to using the nearest available type, capacity or dimension, or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary in consequence of the construction of the authorised works in order to ensure the continued efficient operation of the undertaking of the statutory utility, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory utility by virtue of sub-paragraph (4) shall be reduced by the amount of that excess.

(a) 1984 c. 12.

(b) 1980 c. 66.

(6) For the purposes of sub-paragraph (5)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus except in a case where the apparatus as so extended provides more than an equivalent service; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(7) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (4) (and having regard, where relevant, to sub-paragraph (5)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30th June 1992, as revised and re-issued from time to time, and in accordance with the provisions of the Street Works (Sharing of Costs of Works) (England) Regulations 2000(a).

(8) Sub-paragraphs (4) to (7) shall not apply where the authorised works constitute major transport works for the purposes of Part III of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(9) In this paragraph—

“apparatus” has the same meaning as in Part III of the 1991 Act;

“relocation works” means works executed, or apparatus provided, under sub-paragraph (3), and

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public telecommunications operator as defined in paragraph 1(6).

(a) S.I. 2000/3314

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Greater Manchester Passenger Transport Executive to construct a servicing and maintenance depot for its Metrolink system at a site in and adjoining Elsinore Road in the borough of Trafford.

A copy of the land plans, the works plans and sections and the book of reference are available for inspection free of charge during working hours at the offices of the Executive, 9 Portland Street, Piccadilly Gardens, Manchester M60 1HX.

2002 No. 1327

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

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(Trafford Depot) Order 2002**

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