
STATUTORY INSTRUMENTS

2022 No. 820

The Northumberland Line Order 2022

PART 4

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Power to acquire land

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

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

Application of Part 1 of the 1965 Act

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

- (a) as it applies to a compulsory purchase to which the Acquisition of Land Act 1981(1) applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

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

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

(4) In section 4A(1) (extension of time limit during challenge)(2) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4”, substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 2022”.

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

(1) 1981 c. 67.

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

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

- (6) In section 11A (powers of entry: further notices of entry)(4)—
- (a) in subsection (1)(a), after “land” insert “under that provision”; and
 - (b) in subsection (2), after “land” insert “under that provision”.

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

- (8) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)(5)—
- (a) for paragraphs 1(2) and 14(2) substitute—
 - “(2) But see article 18 (power to acquire subsoil or airspace only) of the Northumberland Line Order 2022, which excludes the acquisition of subsoil or airspace only from this Schedule.”; and
 - (b) after paragraph 29 insert—

“PART 4

INTERPRETATION

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

Application of the 1981 Act

- 16.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (4) Omit section 5A (time limit for general vesting declaration)(6).
- (5) In section 5B (extension of time limit during challenge)(7) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 25 (time limit for exercise of powers of acquisition and temporary use of land) of the Northumberland Line Order 2022”.
- (6) In section 6 (notices after execution of declaration)(8), in subsection (1)(b), for “section 5 of, or paragraph 6 of Schedule 1 to the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.
- (7) In section 7 (constructive notice to treat)(9), in subsection (1)(a), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.

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

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

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

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

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

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

(8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(10), for paragraph 1(2) substitute—

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

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 14 (power to acquire land) by article 15 (application of Part 1 of the 1965 Act).

Power to acquire new rights

17.—(1) Subject to paragraph (2), the Council may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 14 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) In the case of the land specified in columns (1) and (2) of Schedule 5 (land in which only new rights etc., may be acquired) the Council’s powers of compulsory acquisition under article 14 (power to acquire land) are limited to the acquisition of such new rights as may be required for the purposes specified in relation to that land in column (3) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the Council acquires a right over land under paragraphs (1) or (2) the Council is not required to acquire a greater interest in that land.

(4) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this Order of a right over land by the creation of a new right.

Power to acquire subsoil or airspace only

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

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

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

Temporary possession or use of land

Temporary use of land in connection with the development

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

- (a) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purposes specified in relation to the land in column (3) of that Schedule; and

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

- (b) subject to paragraph (11), any other land within the Order limits (excluding the land specified in Schedule 8 (land on which temporary rights of access may be exercised)) in respect of which no notice of entry has been served under section 11 (powers of entry)(11) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act.
- (2) Not less than 14 days before entering upon and taking temporary possession of land under this article the Council must serve notice of the intended entry on the owners and occupiers of the land.
- (3) The Council may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the works for the purposes of which temporary possession of that land was taken.
- (4) Before giving up possession of land of which temporary possession has been taken under this article, the Council must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (5) The Council must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.
- (6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.
- (7) Without affecting article 35 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provision as to compensation for injurious affection)(12) of the 1965 Act or under any other enactment in respect of loss or damage for which compensation is payable under paragraph (5).
- (8) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1)(a) except that the Council is not precluded from acquiring any part of the subsoil of (or rights in the subsoil of or airspace over) that land under article 18 (power to acquire subsoil or airspace only).
- (9) Where the Council takes possession of land under this article, it is not required to acquire the land or any interest in it.
- (10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 15(1) (application of Part 1 of the 1965 Act).
- (11) Paragraph (1)(b) does not authorise the Council to take temporary possession of any land which it is not authorised to acquire under articles 14 (power to acquire land) or 17 (power to acquire new rights).
- (12) The provisions of the Neighbourhood Planning Act 2017(13), insofar as they relate to temporary possession or use of land under this article, do not apply to anything done in connection with the development or the exercise of any powers under this Order.

Temporary use of land for access

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

(11) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 6 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

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

(13) 2017 c. 20.

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

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

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

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

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

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

Compensation

Disregard of certain interests and improvements

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

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

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

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

Set-off for enhancement in value of retained land

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

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

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

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

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

Supplementary

Extinction or suspension of private rights of way

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

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

whichever is the sooner.

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

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

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

whichever is the sooner.

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

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

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

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

- (a) any notice given by the Council before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights over or affecting the land;
 - (ii) the Council's appropriation of it;
 - (iii) the Council's entry onto it; or
 - (iv) the Council taking temporary possession of it,
 that any or all of those paragraphs do not apply to any right specified in the notice; and

- (b) any agreement made at any time between the Council or Network Rail and the person in or to whom the right in question is vested or belongs.
- (8) If any such agreement as is mentioned in sub-paragraph (7)(b)—
 - (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under the person,

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

Open space

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

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

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

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

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 15 (application of part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 16 (application of the 1981 Act).

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