

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES 2006

THE MID-SUFFOLK LIGHT RAILWAY ORDER

EXPLANATORY MEMORANDUM

This memorandum explains the purpose and effect of each article in, and the schedule to, the draft Order, as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (SI 2006 No.1466) (the “Order”).

Mid-Suffolk Light Railway Limited (“the Company”) has implemented several planning permissions granted by Mid-Suffolk District Council for the phased re-instatement of part of the former Mid-Suffolk Light Railway, approximately 936m in length, and erection of a new halt, all wholly within the site of the Mid-Suffolk Light Railway Museum in Wetheringsett in the County of Suffolk.

This Order would authorise the Company to maintain and operate that railway across a public footpath. The Order would also require the Company to provide, maintain and operate at the level crossing such protective equipment as the Office of Rail and Road requires. Finally, the Order would provide for the Company and any subsequent railway undertaker to sub-lease all or part of the railway and, on so doing, to transfer the statutory rights and liabilities relating to it to a third party with the consent of the owner of the freehold and the Secretary of State.

The Order is required so as to confer statutory authorisation for the operation and maintenance of the railway over the level crossing of the public footpath and would allow for the onward transfer of the whole or part of the railway without the need for further statutory instrument. The Order would not authorise the acquisition of land or construction of works, and all the land to which it relates is currently occupied by the Company as lessee.

The draft Order is based on the Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (SI 2006 No.1954) (“the Model Clauses”). Where there is a departure from the Model Clauses, an explanation is provided below.

Article 1 (*Citation and commencement*) provides for the commencement and citation of the Order.

Article 2 (*Interpretation*) contains provisions for the interpretation of words and phrases used in the Order. Definitions additional to those set out in the Model Clauses have been included in the article to provide clarity, taking into account the specific provisions of the Order.

Article 3 (*Power to maintain railway*) authorises the Company to maintain the railway described in the Schedule which was constructed in accordance with a grant of planning consent, without statutory authority. Article 3 is adapted from article 7 of the Rother Valley Railway (Bodiam to Robertsbridge Junction) Order 2023 (SI 2023 No.815), which authorised lengths of existing railway constructed pursuant to planning consent.

Article 4 (*Power to operate and use railway*) allows the Company to operate the Railway as a system, or part of a system, of transport for the carriage of passengers and goods. The powers conferred by this article extend to the crossing of the footpath, which has already been constructed under the planning permission.

Article 5 (*Level Crossing*) requires the Company to provide and operate such protective equipment at the level crossing as may be required by the Office of Road and Rail. It is adapted from article 7 (level crossings) of and Schedule 2 to the Wear Valley Railway (Transfer) Order 2020 (S.I. 2020 No. 2237)

Article 6 (*Power to transfer railway by undertaker*) provides for the Company, under paragraph (2), to sub-lease the railway, or any part of it, to any person with the consent of the freeholder owner of the land comprising the railway or the Secretary of State. Paragraph (3) provides for paragraph (2) to apply to the Railway from the date on which this Order comes into force. Paragraph (4) provides for the transferee to assume the statutory powers and obligations relating to the Railway for the duration of the sub-lease, to the exclusion of the transferor. Paragraph (5) provides that paragraph (4) will take effect during the term of any sub-lease granted. Similar arrangements have precedent in other heritage railway orders including article 4 of the Swanage Railway Order 2014 (SI 2014 No.164) and article 10 of the South Devon Railway Order 2009 (SI 2009 No. 3281).

Schedule (*The railway*) includes the detailed definition of the Railway.