

20[XX] No. [XXX]

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

**The Chinnor and Princes Risborough Railway (Chinnor Branch
and Risborough Sidings) Order 20[XX]**

Made - - - - - ***
Coming into force - - - - - ***

An application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(a) for an Order under sections 1 and 5 of the Transport and Works Act 1992(b) (“the 1992 Act”).

The Secretary of State has determined to make an Order giving effect to the proposals comprised in the application with modifications which in the Secretary of State’s opinion do not make any substantial change in the proposals.

Notice of the Secretary of State’s determination was published in the London Gazette on [].

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1, 8, 15 and 17 of Schedule 1 to, the 1992 Act makes the following Order—

Citation and commencement

1. This Order may be cited as the Chinnor and Princes Risborough Railway (Chinnor Branch and Risborough Sidings) Order 20[XX] and comes into force on [insert date] 20[XX].

Interpretation

2.—(1) In this Order—

“the Association” means the Chinnor and Princes Risborough Railway Association Limited (Registered Charity No 1016237) incorporated under the Companies Act 1985(c) as a company limited by guarantee (Company No 02644128), whose registered office is at Chinnor Station, Station Approach, Station Road, Chinnor, Oxfordshire, OX39 4ER;

“the Company” means the Chinnor & Princes Risborough Railway Company Limited (Company No. 02729049), a private limited company, incorporated under the Companies Act

(a) S.I. 2006/1466; amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590, S.I. 2013/755, S.I. 2014/469, S.I. 2015/377 and S.I. 2017/1070.
(b) 1992 c. 42; section 1 was amended by paragraphs 51 and 52 of Schedule 2 to the Planning Act 2008 (c. 29), section 5 was amended by S.I. 2012/1659..
(c) 1985 c. 20

1985 and having its registered office at Chinnor Station, Station Approach, Station Road, Chinnor, Oxfordshire, OX39 4ER;

“lease” includes an underlease and “lease” where used as a verb is to be construed accordingly;

“the main lease” means the lease of the railway from Network Rail to the Association dated 1st March 2017;

“Network Rail” means Network Rail Infrastructure Limited (Company registration number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006(a) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“obligations” includes all obligations, statutory or otherwise;

“the railway” means the railway described in the Schedule together with all lands and works relating to it, which is held by the Association at the date when this Order comes into force;

“reference point” means Ordnance Survey National Grid reference point;

“the relevant date” means the date on which this Order comes into force;

“rights” includes all rights, powers and privileges, statutory or otherwise; and

“the Undertaker” means the Association and, following any lease under article 3 (transfer of rights and obligations to the Association; leasing to Company) or article 4 (transfer of railway by undertaker), this expression means or includes the Company or any transferee within the meaning of article 4.

(2) Any enactment by which the construction and operation of the railway was authorised has effect subject to the provisions of this Order.

(3) All distances, lengths, measurements and directions stated in any description of powers or lands are approximate and distances between points on a railway are to be taken to be measured along the railway.

Transfer of rights and obligations to the Association; leasing to Company

3.—(1) Except as may be otherwise provided in this Order, as from the relevant date and during the continuance of the main lease—

(a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to the railway at that date (in so far as those provisions continue in force and are capable of taking effect); and

(b) the Association is to the exclusion of Network Rail except insofar as applies to the exercise by Network Rail of its rights under the main lease—

(i) entitled to the benefit of, and to exercise, all rights relating exclusively to the railway or any part of it; and

(ii) subject to paragraph (2), subject to all obligations, relating exclusively to the railway or any part of it (in so far as those provisions continue in force and are capable of taking effect) with Network Rail released from all such obligations.

(1A) Rights which relate both to the railway and to Network Rail’s retained undertaking are concurrently exercisable by the Association and Network Rail so that the Association may exercise such rights, and is subject to any statutory obligations, so far as they relate to the railway and Network Rail may exercise such rights, and is subject to any statutory obligations, so far as they relate to Network Rail’s retained undertaking.

(a) 2006 c. 46

(2) As from the relevant date and during the continuance of the main lease, the Association may, with the consent in writing of Network Rail (such consent not to be unreasonably withheld or delayed), lease to the Company the railway or any part of it together with the rights and obligations vested in or exercisable by the Association in accordance with paragraphs (1) and (1A) of this article on such terms and conditions as may be agreed between the Association and the Company.

(3) During the continuance of the lease referred to in paragraph (2), the Company shall to the exclusion of the Association be entitled to exercise all rights and be subject to all obligations of the Association as are transferred to, conferred on or exercisable by the Association by or in pursuance of this Order and are for the time being in force in respect of the railway or such part of it as is comprised in the lease.

(4) References in this article to Network Rail's retained undertaking do not include the railway.

Transfer of railway by undertaker

4.—(1) In this article—

“the transferor” means any person by whom the railway, or any part of it, is leased under the powers conferred by this article;

“the transferee” means any person to whom the railway, or any part of it, is leased under the powers conferred by this article; and

“the transferred undertaking” means so much of the railway as is leased under the powers conferred by this article.

(2) At any time after the relevant date the Undertaker may, with the consent in writing of Network Rail (such consent not to be unreasonably withheld or delayed) and subject to the consent of the Secretary of State, lease the railway or any part of it to any person on such terms and conditions as maybe agreed between the Undertaker and that person.

(3) Except as otherwise provided in this Order—

(a) the transferred undertaking continues to be subject to all statutory and other provisions applicable to it at the date of the lease (in so far as those provisions continue in force and are capable of taking effect); and

(b) the transferee is, to the exclusion of the transferor—

(i) entitled to the benefit of, and to exercise, all rights relating to the transferred undertaking so far as exercisable by the transferor; and

(ii) subject to all obligations relating to the transferred undertaking (in so far as those provisions continue in force and are capable of taking effect), with the transferor released from all such obligations.

(4) Paragraph (3) has effect during the term of any lease granted under the powers conferred by this article.

Operation of railway

5.—(1) The Undertaker may operate and use the railway as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Nothing in this Order prejudices or affects the operation of Part 1 of the Railways Act 1993(a).

(3) Subject to paragraphs (4) and (5) the motive power to be used on the railway is to be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Office of Rail and Road may in writing approve.

(a) 1993 c. 43. As amended by the Transport Act 2000 (c. 38) and the Railways Act 2005 (c. 14).

(4) Nothing in this Order authorises the use of electrical power as motive power on the railway unless such power is obtained from storage batteries or from a source of generation entirely contained in and carried along with the engines and carriages.

(5) If electrical power is used as motive power on the railway, such electrical power must not be used in such a manner as to cause or be likely to cause any interference with any electronic communications apparatus or with the use of such apparatus.

(6) In this article—

- (a) “electronic communications apparatus” has the same meaning as in the electronic communications code; and
- (b) “the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003^(a).

Dispute resolution

6. Any difference between the Undertaker and Network Rail under this Order is to be determined by the Secretary of State for Transport on a reference to him by the Undertaker or Network Rail, after notice in writing by one to the other.

Saving for main lease

7. –(1) Nothing in this Order affects the provisions of the main lease,

(2) Without affecting paragraph (1), Network Rail shall not be required to consent to a lease of the railway or any part of it under articles 3 or 4 to any person unless the railway or that part has been sublet to that person under the main lease and the subletting complies with the provisions of the main lease.

(3) Where Network Rail has agreed to a subletting of the main lease to any person, it shall be deemed also to have given its consent for the purposes of articles 3(2) or 4(2).

Signed by authority of the Secretary of State

Natasha Kopala
Head of the Transport and Works Act Orders Unit
Department for Transport

Date

(a) 2003 c. 21.

SCHEDULE

Article 2

THE RAILWAY

1,610 metres of the railway of Network Rail, formerly part of the Watlington branch line authorised by the Watlington and Princes Risborough Railway Act 1869 wholly in the parish of Princes Risborough in the Wycombe Area of the County of Buckinghamshire, between its connection with “Railway No. 2” as defined in the Chinnor and Princes Risborough Railway (Extension) Order 1995 (S.I. 1995 No. 2458) at reference point SP791036 and the end of the sidings south of Princes Risborough station adjacent to road overbridge 96 “Picts Lane” at reference point SP798023, together with all lands and sidings relating to the said railway lying between the points of commencement and termination.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer from Network Rail Infrastructure Limited to the Chinnor and Princes Risborough Railway Association Limited, a charitable company limited by guarantee, of certain statutory provisions and other rights and liabilities relating to that railway as conferred or imposed by the Watlington and Princes Risborough Act 1869, and also authorises the sub-leasing of the railway to the Chinnor and Princes Risborough Railway Company Limited, a wholly-owned subsidiary of the Association and makes provision for the sub-leasing to other persons.