



East Green, Aberdeen Order Confirmation Act 1969

CHAPTER xxxiii

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

SCHEDULE

EAST GREEN, ABERDEEN

1. Short title.
2. Interpretation.
3. Power to make structures.
4. Subsidiary works.
5. Power to deviate.
6. Alteration, removal, etc., of existing bridge.
7. Acquisition of rights in air space.
8. General saving for corporation, etc.
9. For protection of electricity and gas undertakers.
10. Saving for town and country planning.
11. Costs of Order.

ELIZABETH II



1969 CHAPTER xxxiii

Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to East Green, Aberdeen. [25th July 1969]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said order should be confirmed by Parliament: 1936 c. 52.

Be therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.

This Act may be cited as the East Green, Aberdeen Order Confirmation Act 1969. Short title.

SCHEDULE

EAST GREEN, ABERDEEN

Provisional Order to authorise Commercial Union Assurance Company Limited to construct buildings or structures over East Green in the city and royal burgh of Aberdeen, and for other purposes.

Whereas Commercial Union Assurance Company Limited (hereinafter referred to as " the Company ") are a company limited by shares incorporated in England under the Companies Acts 1862 to 1867 and are engaged in transacting the business of life assurance:

And whereas the Company hold as assets required to meet liabilities under policies of life assurance properties of substantial value and extent in all parts of the United Kingdom and seek to improve, where appropriate, to redevelop such properties: and amongst the properties so held are premises known as 91 and 93 Union Street and the building known as the Market Building in East Green situated in the city and royal burgh of Aberdeen:

And whereas premises known as 95, 97 and 99 Union Street in the said city and adjoining the said premises of the Company are owned and occupied by James Grant and Company (East) Limited who are a company limited by shares incorporated under the Companies Act 1948, and carry on business in the retail sale of furniture:

1948 c. 38.

And whereas the buildings comprised in 91 and 93 and 95, 97 and 99 Union Street and the building known as the Market Building in East Green in the said city (hereinafter referred to as " the properties ") are of considerable age and unsuited to modern requirements and it would be of public and local benefit if these buildings were redeveloped and the sites thereof utilised to the fullest advantage:

And whereas the said redevelopment includes provision for the demolition of the properties and the construction on the sites thereof of premises comprising a retail chain store, market hall, restaurants, offices, car parking facilities and storage areas and ancillary accommodation:

And whereas it is an essential feature of the redevelopment that the new buildings comprised therein should extend by way of bridging

tructures bridging over East Green so as to constitute the redevelop- ta single entity and it is expedient that the Company should be horised to construct such buildings or structures as in this Order vided;

And whereas it is expedient that the other provisions contained in Order should be enacted:

whereas a plan and sections showing the lines and levels of the s authorised by this Order, such plan showing also the lands which used under the powers of this Order and for the purposes of Order together with a book of reference to the said plan containing names of the owners or reputed owners, lessees or reputed lessees of the occupiers of all such lands and describing the same, have deposited with the sheriff clerk of the city of Aberdeen and such sections and book of reference are respectively referred to in this der as the deposited plan, sections and book of reference;

nd whereas the purposes of this Order cannot be effected without rder confirmed by Parliament under the provisions of the Private ution Procedure (Scotland) Act 1936: 1936 c. 52.

ow, therefore, in pursuance of the powers contained in the last- ct the Secretary of State orders as follows:—

is Order may be cited as the East Green, Aberdeen Order Short title.

(1) In this Order the following words and expressions have Interpretation. everal meanings hereby assigned to them respectively, unless e something in the subject or context repugnant to such ction, that is to say:—

he buildings" means the buildings or structures comprised in Work No. 1 and Work No. 2 authorised by section 3 (*Power to make structures*) of this Order or either of them and includes the same as renewed or altered under subsection (2) of the said section 3 and any works constructed under section 4 (*Subsidiary works*) of this Order;

the city" means the city and royal burgh of Aberdeen;

Company" means Commercial Union Assurance Company Limited;

Corporation" means the lord provost, magistrates and town council of the city;

East Green" and "Market Street" mean respectively the highways of those names in the city;

existing bridge" means the existing bridge or structure constructed across and above the level of East Green at or near the south-western end of that street and affording access from the Market Building in that street to Union Street in the city.

(2) Any reference in this Order to any enactment shall be construe as a reference to that enactment as applied, extended, amended varied by or by virtue of any subsequent enactment including Order.

Power to make structures.

3.—(1) Notwithstanding anything in any other enactment o of law, or any interest or other right of the public or the inhabit at large in, on or over East Green, but subject to the provisions of Order, the Company, when pursuant to section 7 (Acquisition of ri in air space) of this Order they have acquired from the corpor such rights and interests as they may have in the air space East Green, may make in the lines and situations and upon lands delineated on the deposited plan and described in the dep book of reference and according to the level shown on the dep sections the works hereinafter described, that is to say:—

Work No. 1 A building or structure across and above the of East Green commencing at a point in the centre of carriageway thereof 186 feet or thereabouts measured a west-south-westerly direction from the junction of Green with Market Street and terminating at a point in centre of the said carriageway 55 feet or thereab measured in an east-north-easterly direction from the of commencement.

Work No. 2 A building or structure across and above th of East Green commencing at a point in the centre carriageway thereof 266 feet or thereabouts measure west-south-westerly direction from the junction of East with Market Street and terminating at a point in the of the said carriageway 80 feet or thereabouts mea in an east-north-easterly direction from the point of co mencement by a junction with Work No. 1.

(2) Subject to the provisions of this Order, the Company may time to time within the limits of deviation maintain and renew t buildings or any part thereof and may make minor alterations additions thereto.

Subsidiary works.

4. Subject to the provisions of this Order, the Company for th purposes of or in connection with the buildings may in addition thereto construct, execute, place and keep all such minor subsidiary works conveniences as they may find necessary or expedient for or i nection with the construction, maintenance or renewal of the build or the making of minor alterations and additions thereto:

Provided that nothing in this section shall authorise the Com to interfere with the surface of East Green.

Power to deviate.

5. In the construction of the buildings the Company may dev laterally from the lines or situations thereof shown on the depos plan to any extent not exceeding the limits of deviation shown on plan and may deviate vertically from the levels shown on the deposit sections to any extent upwards or downwards:

Provided that—

(i) any vertical deviation under this section shall, except with the consent of the corporation, be applicable to both Work No. 1 and Work No. 2; and

(ii) no part of the buildings shall be constructed at a height above the surface of the carriageway of East Green less than 16 feet 6 inches or such greater height as the corporation may reasonably require.

Alteration, removal, etc., of existing bridge.

Subject to the provisions of this Order, the Company may upon ...uiring the necessary rights and interests in the existing bridge, ...demolish or reconstruct and thereafter maintain and from time ...time alter or renew the same.

Acquisition of rights in air space.

Notwithstanding anything in any other enactment or rule of law, ...Company and the corporation may enter into and carry into effect ...ements for the acquisition by the Company from the corporation ...such rights and interests in East Green and the air space above the ...thereof as the corporation may have and as may be requisite for ...purpose of the construction, maintenance, renewal or alteration of ...buildings, and for the purposes of this Order and of any such ...ement as aforesaid those rights and interests shall, as from the ...ng of the Act confirming this Order, be deemed to be free from ...beneficial interest or other right of the public or the inhabitants ...rge in, on or over East Green.

General saving for corporation, etc.

Nothing in this Order shall prejudice, take away, diminish, alter ...bridge—

(1) any statutory or other rights, powers, privileges, jurisdictions or authorities acquired by, vested in or enjoyed by the corporation; or

(2) any rights, powers, privileges or jurisdictions vested in or enjoyed by the City of Aberdeen Buildings Authority under the Building (Scotland) Act 1959 and any regulations made thereunder; 1959 c. 24.

...all such rights, powers, privileges, jurisdictions and authorities ...ontinue to be held, exercised and enjoyed by the corporation ...said buildings authority, as the case may be, as if the Act ...ing this Order had not been passed:

...ed that this section shall not apply to the powers and juris- ...of the corporation vested in and enjoyed by them under ...on 59 of the Aberdeen Corporation (Streets Buildings Sewers &c.) ...1936 in so far as those powers and jurisdictions would, apart ...this proviso, have been exercisable in relation to the construction, ...enance and renewal of the buildings.

For protection of electricity and gas undertakers.

9. The following provisions for the protection of the undertakers shall, unless otherwise agreed in writing between the Company and the undertakers, apply and have effect:—

(1) In this section—

"apparatus" means—

(*a*) in relation to the North of Scotland Electric Board, electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the board; and

1882 c. 56.

(*b*) in relation to the Scottish Gas Board, any mains, pipes or other apparatus belonging to the board;

and includes any building, structure or works constructed for the lodging therein of apparatus;

"in" in a context relating to apparatus includes under, over, across, along or upon;

"position" includes depth;

"the undertakers" means the North of Scotland Electric Board or the Scottish Gas Board, or either of them:

(2) Nothing in this Order shall relieve the Company from liability for damage caused by them to any apparatus in the exercise of the powers conferred on them by this Order:

(3) The Company, before exercising any of the powers conferred on them by this Order by which apparatus would or may be affected, shall give to the undertakers not less than one month's notice in writing:

(4) (*a*) Whenever by reason of the exercise or proposed exercise by the Company of the powers conferred on them by this Order it is reasonably necessary for any apparatus to be removed or for the use thereof to be discontinued the undertakers shall with all reasonable dispatch, and if so required by the Company shall, at the undertakers' option either—

(i) remove the apparatus and re-lay or replace it to such extent, if any, as the undertakers may deem necessary in such position as may be agreed between the undertakers and the Company; or

(ii) discontinue the use of the apparatus and in lieu thereof provide and lay or place in such other position aforesaid other apparatus to such extent as aforesaid;

(iii) proceed partly in one of the foregoing ways and partly in the other;

and the Company shall, in the event of any such removal of such apparatus or in the event of the provision of such other apparatus, afford to the undertakers, where reasonably practicable, any necessary facilities and rights for the construction and thereafter for the use, maintenance, renewal and inspection of such apparatus on land belonging to the Company;

(b) Whenever any apparatus is by reason or in consequence of the exercise by the Company of the powers conferred on them by this Order rendered derelict, useless or unnecessary, the Company shall, except as provided in the second proviso to paragraph (5) of this section, forthwith pay to the undertakers such a sum as may be agreed between the Company and the undertakers or, failing agreement between them, as may be determined by arbitration under the provisions of this section to be the value of the apparatus so rendered derelict, useless or unnecessary and such apparatus shall upon such payment become the property of the Company:

(5) The Company shall repay to the undertakers the reasonable expenses incurred by the undertakers of or in connection with the removal and re-laying or replacing of any apparatus and the provision and laying or placing of any new apparatus under the provisions of paragraph (4) of this section and the reasonable cost of and incidental to—

(i) the cutting off of any apparatus from any other apparatus: and

(ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 (which imposes limitations on undertakers' rights to payments) shall so far as applicable extend and apply to any payment to be made by the Company under this paragraph as if the works therein mentioned were undertakers' works within the meaning of subsection (2) of the said section 23 and as if in the said subsection (3) the words from "existing apparatus was" to "then" were omitted: 1950 c. 39.

Provided further that where other apparatus is provided and laid or placed in lieu of any existing apparatus in accordance with the provisions of paragraph (4) of this section the Company shall not be required to make any payment to the undertakers for any such existing apparatus which has been rendered derelict, useless or unnecessary and such last-mentioned apparatus shall, so soon as the new apparatus has been laid, become the property of the Company:

(6) (a) Any difference which may arise between the Company and the undertakers under this section shall be referred to and determined by an arbiter to be mutually agreed upon between the Company and the undertakers 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;

(b) In settling any difference under this section the arbiter shall have regard to any duties or obligations which the undertakers may be under in respect of any apparatus and may

if he thinks fit require the Company to execute any tempor
or other works so as to avoid so far as may be reasona
possible interference with any purpose for which the appar
is used.

Saving for town and country planning.

10. The provisions of the Town and Country Planning (Scot
Acts 1947 to 1966, and any restrictions or powers thereby impos
confirmed in relation to land shall apply and may be exercise
relation to any land notwithstanding that the development thereo
or may be authorised or regulated under this Order.

Costs of Order.

11. The costs, charges and expenses of and incidental to the prepa
for, obtaining and confirming of this Order or otherwise in relat
thereto shall be paid by the Company.

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