

Draft: 14.6.2002

TRANSPORT AND WORKS ACT 1992

**LEICESTERSHIRE COUNTY COUNCIL (ASHBY DE LA ZOUCH CANAL
EXTENSION) ORDER**

[DRAFT]

PROMOTION AGREEMENT

Between

LEICESTERSHIRE COUNTY COUNCIL

And

BRITISH WATERWAYS BOARD

Winckworth Sherwood
35 Great Peter Street
Westminster
London SW1P 3LR

Solicitors and Parliamentary Agents

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THIS AGREEMENT is made on 2002 between
LEICESTERSHIRE COUNTY COUNCIL (“LCC”) and the **BRITISH WATERWAYS**
BOARD (“BW”).

WHEREAS:

- (1) LCC are proposing to apply to the Secretary of State for the Environment, Food and Rural Affairs for the Leicestershire County Council (Ashby de la Zouch Canal Extension) Order (“the Order”) containing provisions to authorise the restoration of the Ashby Canal from Snarestone to Measham:
- (2) The canal to be restored pursuant to the Order will be connected to the section of the Ashby Canal which forms part of the BW network:
- (3) LCC and BW are entering into this Agreement for the purposes of making provisions in relation to the application for the Order and other matters.

NOW IT IS HEREBY AGREED THAT UNLESS OTHERWISE AGREED IN WRITING between the LCC and BW the following shall have effect:-

INTERPRETATION

1. In this Agreement, unless the context otherwise requires, words and phrases have the same meanings as in the Order and –

“the Code of Practice” means the Code of Practice for Works affecting British Waterways or any replacement or modification thereof from time to time issued by BW;

“the green land” means the land shown edged green on the plan;

“the lock” means the lock to be constructed at the junction between the canal and the board’s canal;

- “the Order” means the draft Order, or the Order as made by the Secretary of State, as the context requires, and includes the plans and sections referred to in the Order;
- “the plan” means the plan annexed to this Agreement;
- “the protective schedule” means the schedule to the Order to which the heading is “For the protection of the British Waterways Board”;
- “the red land” means the land shown edged red on the plan.

BW NOT TO OPPOSE ORDER

2. BW shall not oppose the application for the Order.

PROMOTION OF ORDER

- 3.1 LCC shall be responsible for preparing and submitting the application for the Order, and for taking all steps required to secure the making of the Order by the Secretary of State.
- 3.2 BW shall not be required to make any payment to LCC for obtaining the Order or taking the steps referred to in Clause 3.1 above.

AMENDMENTS TO ORDER, UNDERTAKINGS AND AGREEMENTS

- 4.1 LCC shall not apply for the Order otherwise than in the form of the draft approved by BW (a copy of which is appended to this Agreement).
- 4.2 LCC shall not before or after the application for the Order –
- (a) request the Secretary of State to amend the Order;

(b) approve any amendment to the Order required by any objector, potential objector or any other person; or

(c) give any undertaking, or enter into any agreement, with respect to the Order

without the approval in writing of BW.

4.3 If LCC is informed that the Secretary of State is minded to make the Order subject to amendments, it shall forthwith consult BW on the amendments.

4.4 If the Secretary of State makes the Order subject to the amendment of the protective schedule or any other provision intended to confer protection on BW, LCC and BW shall enter into a further agreement conferring on BW protection no less favourable than that conferred by the provision so amended.

4.5 For the purposes of this clause “amendment” includes the deletion of any part of the Order and “amend” shall be construed accordingly.

TEMPORARY CLOSURE OF BOARD’S CANAL

5.1 In this clause –

“closure” means the temporary closure to navigation of the specified waterway, and includes the dewatering or drawing down of the level of the water in that waterway, and “close” shall be construed accordingly;

“the specified waterway” means so much of the board’s canal as is situated within 15 metres of its terminus at Snarestone

5.2 BW hereby permits LCC to close the specified waterway and direct vessels therefrom during and for the purposes of the construction of the lock.

- 5.3 LCC may close the specified waterway under clause 5.2 for a period commencing on the date of the coming into force of the Order and terminating on the fifth anniversary of that date and thereafter for such further period as BW acting reasonably may agree.
- 5.4 The consent of BW under clause 5.3 shall not be unreasonably withheld or delayed but may be given subject to reasonable conditions.
- 5.5 LCC shall construct the lock as a continuous operation and with due dispatch.
- 5.6 Subject to this Agreement and subject to the plan approval and all other relevant provisions of the protective Schedule BW hereby permits LCC to construct the lock and to carry out any related works (other than permanent works) in the specified waterway.
- 5.7 As soon as reasonably practicable after the completion of so much of the construction of the lock as requires the closure of the specified waterway LCC shall restore the waterway to the reasonable satisfaction of BW to a condition no less satisfactory than its condition immediately prior to the commencement of the authorised works.
- 5.8 LCC hereby covenants with BW to reimburse BW in respect of all reasonable costs and expenses incurred by it in bringing the closure (and any extension of the period of closure) to the attention of users of its inland waterways.
- 5.9 The closure shall be deemed to be a specified work for the purposes of the protective article.
- 5.10 If BW reasonably determine that the construction of lock and carrying out of any related works cannot be carried out safely and conveniently without the closure of the specified waterway or any part of it, it may itself close the specified waterway or any part of it having given notice in writing of their determination to LCC so as to

permit the carrying out of those works, whereupon this Agreement shall have effect as though the closure had been carried out by LCC with the consent of BW.

- 5.11 Except as provided in Clause 5.2, nothing in this Agreement or in the Order shall authorise LCC to close to navigation any part of the specified waterway or any other part of the board's canal.

REFUSE POINT AND SANITARY STATION

- 6.1 During the construction of the lock and any related works and until the commissioning of the facilities referred to in Clause 6.2 below LCC shall provide and maintain at its own cost and at a location convenient for users of the board's canal temporary facilities for sewage disposal, refuse disposal and the provision of drinking water.
- 6.2 Before the opening of the canal for navigation LCC shall provide at its own expense on the red land, a sanitary station, refuse disposal point and a stand pipe for drinking water for use by users of the canal and of the board's canal.
- 6.3 As soon as reasonably practicable after the opening of the canal for navigation –
- (a) LCC shall transfer to BW for a peppercorn ownership of the red land and the facilities referred to in Clause 6.2;
 - (b) LCC shall grant to BW without any further payment a permanent easement for access to the red land for vehicles, plant and machinery and for persons on foot along the route indicated on the plan by a blue line and thereafter LCC shall maintain the route in good condition;
 - (c) BW shall transfer to LCC for a peppercorn ownership of the green land and the facilities situated thereon (which at the date of this Agreement comprise the refuse point and sanitary station).

6.4 Following the transfer of the red land to BW under clause 6.3(a) BW shall become solely responsible for the maintenance, repair and renewal of the facilities referred to in clause 6,2 and shall make them available for the benefit of users of the board's canal and (so long as the canal remains in the ownership of LCC or of BW) the canal.

6.5 Following the transfer of the green land to LCC under clause 6.3(c) LCC shall at its own cost demolish and remove the existing facilities situated thereon and restore the land to a proper condition.

CALCULATION OF PAYMENTS

7. The costs payable by LCC to BW under this Agreement or the protective schedule shall be calculated according to the rates (where applicable) specified in the Schedule of Costs set out in Appendix 1 to the Code of Practice.

ARBITRATION

8. Any differences or want of agreement between LCC and BW under this Agreement (other than a difference as to the meaning or construction of this Agreement) shall be determined by arbitration in the manner provided by the Order.

SIGNED on behalf of)
LEICESTERSHIRE COUNTY COUNCIL)

SIGNED on behalf of)
BRITISH WATERWAYS BOARD)