

# TRANSPORT AND WORKS ACT 1992

## TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

### SUMMARY PROOF OF EVIDENCE OF JONATHAN SINCLAIR

#### LAND ACQUISITION AND USE

13 OCTOBER 2023

#### 1. INTRODUCTION

- 1.1 My name is Jonathan Sinclair. I am employed by Network Rail Infrastructure Limited (**Network Rail**) as a Senior Surveyor for North West and Central Region. I work in the Property Services Team providing a wide range of specialist property services and expertise within the rail environment.
- 1.2 I qualified as a Chartered Surveyor in October 2015 and have undertaken a number of roles on different projects providing advice and seeking support from other members of my team which include Chartered Surveyors and Consents Managers.
- 1.3 I have worked at Network Rail since 2012, with 11 years of property experience on railway projects. My current focus is the High Speed 2 Project where I operate as the interface between HS2 Limited and Network Rail providing land and property strategies, delivering acquisitions, supporting a full range of rail projects and operations and the disposal of any surplus land.
- 1.4 I have prepared my proof in connection with the above-named order (**Order**) and, in particular, regarding the land interests required to deliver the scheme of works to which the Order relates (**Project**). The Project entails the construction of a temporary Road-Rail Access Point (**RRAP**) and a permanent RRAP, together with a supporting logistics compound and associated development, on land at Horn Lane, Acton.
- 1.5 This summary provides an overview of my evidence in relation to the proposed acquisition of land and rights over land pursuant to the provisions of the Order.

#### 2. LAND AND POWERS INCLUDED IN THE ORDER

- 2.1 The land required for the Project is comprised of four plots, of which Plots 2, 3, and 4 are described in my Proof as the **Order Land**.
- 2.2 My Proof briefly describes the Order Land, as well as powers sought over that land. It explains that no land is proposed to be acquired permanently pursuant to the provisions of the Order and further explains that any land and/or powers included within the Order are necessary for the Project and no powers are sought, unless essential to facilitate the Project.
- 2.3 The Proof confirms that Network Rail is seeking to secure the relevant land and powers by negotiations with the affected landowner, as well as occupational tenant, and the powers in the Order would only be exercised where it is not possible or practicable to reach agreement. A summary of engagement undertaken to date is also provided in my Proof.

### **3. JUSTIFICATION FOR THE ACQUISITION OF RIGHTS AND USE OF THE LAND AND RIGHTS**

- 3.1 My Proof briefly addresses the matters raised at paragraph 4c of the Statement of Matters. This point is further addressed in the Statement of Case submitted on behalf of Network Rail. My Proof also explains that powers included in the order are very limited.
- 3.2 The Proof also confirms that, in accordance with Rule 15 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, notices have been served on the owners, lessees and occupiers of any land affected by the Project.

### **4. IMPACT ON THE CURRENT OWNERS AND OCCUPIERS**

- 4.1 My Proof explains that the extent of Network Rail's use of the Order Land will mean that the current occupational tenant, STARK, would not be able to continue occupation until their lease expired. As such, Network Rail will be compensating STARK for the remainder of their lease.
- 4.2 In terms of Network Rail's negotiations with the freehold owner of the Order Land, Bellaview, my Proof sets out negotiations undertaken to date and the most up to date position (as at the date of my Proof).
- 4.3 In relation to Plots 2 and 4, my Proof explains that these plots are subject to various rights enjoyed by residents of the adjoining residential property, known as Acton House. However, while Plots 2 and 4 will be required for the Project (on a temporary basis), Network Rail is confident that access rights and/or any associated rights enjoyed by Acton House residents will not be affected and can continue to be enjoyed while Network Rail is present on the Order Land for the purposes of the Project. Safety of any such access sharing is proposed to be managed via construction traffic management plan, as further described in Network Rail's Statement of Case.

### **5. COMPENSATION PROVISIONS**

- 5.1 The Proof sets out the compensation provisions included in the Order and explains that, in the event where the exercise of powers conferred by the Project results in loss or additional cost to landowners and/or occupiers, they may be able to submit a compensation claim for such costs and losses, which will be considered under the compensation provisions of the Order.

### **6. INTERFERENCE WITH HUMAN RIGHTS**

- 6.1 Addressing the matters raised at 4(d) of the Statement of Matters, my Proof explains that the powers sought under the Order are necessary for the delivery of the Project. As such, purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected.

### **7. SUMMARY OF LANDOWNER ENGAGEMENT**

- 7.1 As mentioned above, my Proof sets out engagement undertaken with the landowner and occupational tenant affected by the Order and what has been agreed at the date of the Proof.
- 7.2 Addressing the matters raised at 5 of the Statement of Matters, my Proof also provides an update on the current position in relation to Crown Land.

## 8. OUTSTANDING OBJECTIONS

- 8.1 My Proof covers objections submitted in relation to the Order, in so far as they relate to matters within my expertise and remain outstanding at the date of the Proof. My Proof also confirms that, in my opinion, the necessary land acquisition of the Crown Land will be secured following grant of the Order and, as such, there is no impediment to the Project.
- 8.2 As at the date of my Proof four objections against the proposed use of land and acquisition of rights over land remain outstanding, as follows:
- a. OBJ01 and OBJ02 – Acton House residents who are concerned that Network Rail's use of the Order Land will affect access and/or use of their properties.
  - b. OBJ06 – STARK Building Materials Limited, trading as Jewson (**STARK**), occupational tenant of the Order Land.
  - c. OBJ08 – Bellaview Properties Limited (**Bellaview**), freehold owner of the Order Land.
- 8.3 In terms of OBJ01 and OBJ02, my Proof explains that the Project has been designed in such a way so that it does not interfere with any access to the garages/parking and/or to the rear of Acton House. The objectors have been advised accordingly via Network Rail's responses to the individual objections. In any event, if the exercise of powers conferred by the Project results in loss or additional cost to landowners and/or occupiers, they may be able to submit a compensation claim for such costs and losses which will be considered under the compensation provisions of the Order, as set out in my Proof.
- 8.4 In relation to OBJ06 and OBJ08, my Proof, taken together with the proofs of evidence of Network Rail's other witnesses, concludes that there is a compelling case in the public interest for the compulsory acquisition of rights over the Order Land. The Order Land, as shown on the Land Plans, is required for the Project. Alternative sites have been considered (as is set out in detail in Mr Ford's evidence) and it has been concluded that they cannot accommodate the Project.
- 8.5 My Proof reiterates that Network Rail continues negotiating with all objectors with a view to agreeing the best way forward and having the objections to the Order removed as soon as possible.

## 9. CONCLUSION

- 9.1 My Proof concludes that:
- a. the draft Order has been made in accordance with the relevant guidance, which includes a requirement to seek agreement with land and property interest owners;
  - b. all the land and rights over land, which Network Rail has applied for, are necessary to implement the Project and, therefore, there is a compelling and justified case in the public interest for the powers and proprietary rights sought to be granted under the proposed Order; and
  - c. it is considered that any interference with human rights is proportionate to the public benefit that will be derived from the Project and in the wider public interest in order to secure the benefits resulting from the delivery of the Project.

**Dated: 13 October 2023**

I believe that the facts stated in this summary are true.



Jonathan Sinclair