



TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (INQUIRIES PROCEDURES)
RULES 2004

**THE NETWORK RAIL (LEEDS TO MICKLEFIELD
ENHANCEMENTS) ORDER**

PROPERTY & OPEN SPACE CERTIFICATES
PROOF OF EVIDENCE
Benjamin Thomas

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The Network Rail (Leeds to Micklefield Enhancements) Order

CD 7.17 Property & Open Space Certificates Proof of Evidence

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1 INTRODUCTION

- 1.1 My full name is Benjamin Wilson Thomas. I am a salaried partner at Carter Jonas LLP, a firm of chartered surveyors with the head office at Chapel Place, London, W1G 0BG. The firm operates from 33 offices across England and Wales, and I am based in the Leeds office.
- 1.2 I am a member of The Royal Institution of Chartered Surveyors (RICS) having qualified in 2013 and an RICS registered valuer. I obtained a BSc Degree in Land Management from the University of Reading in 2008, and a MSc in Urban Planning and Development in 2009.
- 1.3 I have worked for Carter Jonas since August 2014 and have practiced predominately within the field of compulsory purchase and compensation for over 10 years. I have acted for both acquiring authority clients and claimants affected by infrastructure and regeneration projects including Transport and Works Act Orders, Compulsory Purchase Orders and Development Consent Orders.
- 1.4 Carter Jonas are currently on the Network Rail Property Services Framework, with the framework services including compulsory purchase and compensation. In January 2021 Carter Jonas were instructed to provide property and land referencing services on the Transpennine Route Upgrade (“TRU”) (East of Leeds) Project. As part of this instruction, we are required to provide expert witness support in relation to the public inquiry into the Order.
- 1.5 The Order is part of a multi-billion-pound, transformative, long-term railway infrastructure programme that will improve connectivity in the North, principally West-East, between the major economic centres of the northwest and Yorkshire-Humber. It will support economic growth in the North and deliver benefits for passengers and communities along the route and beyond.
- 1.6 The Order will deliver or enable the delivery of the works set out in Section 3.2 of this proof, and further set out in the proofs of Paul Harrison (**CD 7.05**) and Michael Westwood (**CD 7.26**).
- 1.7 Where land is not already within the freehold ownership of Network Rail, it will be necessary to permanently acquire and/or temporarily use land which is in private ownership to deliver these works.
- 1.8 My role is to provide support to the project team with regards to property issues, engaging with affected landowners and assisting with reaching agreement with landowners who have objected to the Order Scheme. I also provide advice on potential compensation issues and land strategy as required by the

project team. In addition, I am instructed to present evidence as an expert witness regarding land and property matters at the Public Inquiry.

- 1.9 A number of parties affected by the Order are clients of Carter Jonas, managed by separate teams within the firm. I confirm I have complied with the RICS Professional Standards on Conflicts of Interest (2017), with information barriers being implemented. I confirm I am able to fulfil my duties as Expert Witness on this matter.
- 1.10 I am aware of the details of the wider Scheme of which the Order Scheme forms part having been instructed on TRU East from January 2021, inputting into the design development from a property perspective. I have undertaken regular site visits and have met the majority of freeholders of land included within the Order.
- 1.11 I attended the majority of engagement meetings held with landowners and affected residents. Where I did not personally attend a meeting I have been kept informed by those who attended and where appropriate provided notes of the meeting to help affected parties understand the Scheme.

Statement of Matters

- 1.12 The Statement of Matters was received from the Transport Infrastructure Planning Unit ("TIPU") on 20th December 2023. Matter 5 (b) and Matter 6 (as set out below) will be dealt with in my proof of evidence, which should be read alongside proofs of evidence of David Vernon (**CD 7.02**), Tony Rivero (**CD 7.14**), Paul Harrison (**CD 7.05**), Michael Westwood (**CD 7.26**) and Ged Stamper (**CD 7.08**).

Matter 5:

- b) Impact on irrigation systems at Peckfield House Farm from the demolition of Brady Bridge.

Matter 6:

- a) Whether there is a compelling case in the public interest to justify conferring on Network Rail powers to compulsorily acquire and use land for the purposes of the scheme.
- b) Whether the 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 (having regard to Human Rights Act).

- c) Whether there are likely to be any impediments to Network Rail exercising the powers contained within the Order, including the availability of funding.
- d) Whether all the land and rights over land which Network Rail has applied for is necessary to implement the scheme, together with the application of open space certificates under s.19 of the Acquisition of Land Act 1981.

2 STRUCTURE OF THE PROOF OF EVIDENCE

2.1 My Proof of Evidence will address the land and property impacts of the Scheme and will cover the matters set out below:

- consideration of the rights and powers that are sought by Network Rail in the Order to facilitate the delivery of the Scheme;
- a review of the rights for owners of an interest in land to claim compensation as a result of the implementation of the Order, if made by the Secretary of State, and a summary of the engagement regarding the acquisition of property interests;
- a summary of how the proposed works and proposed implementation of the Order sits within the framework of human rights legislation and a review of whether there is a compelling case in the public interest to justify conferring on Network Rail powers to compulsorily acquire and thereby interfere with the human rights of those with an interest in the affected land; and
- a response to objections by owners of an interest in land on a case-by-case basis, responding to the concerns and issues raised by the Objectors which relate to land and property matters and are not otherwise dealt with by other witnesses.
- Responding to those who have made a representation in respect of the Order Scheme where a response has not already been provided by other witnesses.

3 POWERS SOUGHT BY NETWORK RAIL

3.1 Purpose of the Order

3.1.1 The purpose of the Order is to enable Network Rail to deliver the Scheme. It would authorise Network Rail to carry out and maintain the Authorised Works to facilitate the delivery of the Scheme and realise the full benefits of the wider TRU.

3.2 Powers to acquire land and rights

Summary of Order Powers

- 3.2.1 The draft Order includes several articles giving powers to Network Rail to acquire or use land on a permanent or on a temporary basis and/or to acquire rights in land.
- 3.2.2 The areas of land to be acquired and used are split into plots: these are shown in the deposited plans and sections (**CD 1.09**). Each plot is then further described in the book of reference (**CD 1.08**) which sets out a description of each plot and lists the owners, occupiers and others with a legal interest in the land.
- 3.2.3 A summary of the principal powers that directly impact landowners within the Book of Reference (**CD 1.08**) are set out below.
- Article 22 – power to acquire land
 - Article 25 – power to acquire new rights
 - Article 26 – power to acquire subsoil or airspace only
 - Article 27 – rights under or over streets
 - Article 28 – temporary use of land for construction
 - Article 29 - temporary use of land for maintenance
 - Article 30 - temporary use of land for access
 - Article 32 – extinction or suspension of private rights of way

Schedule of Land and Rights

- 3.2.4 A Schedule of Land and Rights was appended to the Statement of Case (**CD 4.01**) at Appendix 3. I have appended a revised version to my proof of evidence at Appendix A reflecting recent changes to the draft Order. It contains a summary of the powers being sought over each individual plot of land, detailing what each plot is required for.

Permanent Acquisition Powers

- 3.2.5 The draft Order includes powers to permanently acquire land in Article 22. The powers confer on Network Rail the ability to compulsorily acquire land within the limits of deviation for the Authorised Works.
- 3.2.6 The ‘Authorised Works’, as set out in Article 2 of the draft Order, means the Scheduled Works, works approved pursuant to section 90(2A) of the Town

and Country Planning Act 1990 and any other works authorised by the Order, the Planning Permission (as defined in Article 2 of the draft Order) and the Town and the Town and Country Planning (General Permitted Development) (England) Order 2015 including Part 18 of Schedule 2 to that Order.

Scheduled Works

3.2.7 Article 7 (1) and (2) of the Order would allow Network Rail to construct and maintain the Scheduled Works, within the limits of deviation shown on the deposited plans.

3.2.8 The Scheduled Works are specified in Schedule 1 to the Order and summarised as follows:

- **Work No. 1** – Reconstruction and realignment of Austhorpe Lane Bridge, including the demolition of the existing Austhorpe Lane HUL4 Overbridge 21 carrying Austhorpe Lane over the existing railway (Leeds to Micklefield) and demolition of pedestrian bridge 21A.
- **Work No. 2** – A diversion of a high pressure gas main which is currently adjacent to the existing Austhorpe Lane Bridge.
- **Work No. 3** – Reconstruction of Crashaw Wood Bridge HUL4/20.
- **Work No. 4** – Construction of a new ramped bridge near Barrowby Lane over the existing railway.
- **Work No. 5** – Reconstruction Ridge Road Bridge HUL4/14 carrying the A656 over the existing railway.
- **Work No. 6** – A diversion of a high pressure gas main which is currently adjacent to the existing Ridge Road Bridge.

Works Specified in Schedules 2 and 10 of Order

3.2.9 Article 7 (3) and (4) would permit Network Rail to carry out and maintain works specified in Schedule 2 (acquisition of land for ancillary and associated works) and Schedule 10 (acquisition of new rights only) on land specified in columns 1 and 2 of those Schedules.

3.2.10 The works identified by Schedule 2 (acquisition of land for ancillary works) include:

- Construction of rail infrastructure outside the railway boundary at Penny Pocket Park.

- Construction of new access road at Newmarket Approach, Leeds into the Neville Hill Sidings
- Demolition of Brady Farm Bridge and extinguishment of rights
- Construction of Track Sectioning Cabin and ancillary infrastructure at Phoenix Avenue, Micklefield
- Improvements to Lower Peckfield Lane, Micklefield to facilitate closure of Peckfield Level Crossing.

3.2.11 Schedule 10 (acquisition of new rights only) would permit Network Rail to acquire the following rights:

- Garforth Moor - a right of access at Garforth Moor to facilitate the closure of a level crossing, for the benefit of third parties, including users of the Garforth Bank Row Allotments.
- Phoenix Avenue, Micklefield - a right of access along the unadopted portion of Phoenix Avenue in Micklefield to access and maintain the authorised works.
- Austhorpe Lane, Crossgates – a right to install a sub-surface gas pipe and related apparatus at ground level, and right of access for ongoing maintenance.

Works Ancillary to Scheduled Works

3.2.12 Article 7 (5) of the Order permits Network Rail to carry out and maintain works specified as may be necessary or expedient for the purposes of, or purposes ancillary to, the construction of the Scheduled Works.

Other Works ancillary the Authorised Works

3.2.13 Article 7 (6) of the Order would also authorise Network Rail to construct and maintain other works that may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the Authorised Works.

Temporary Access and Possession Powers

3.2.14 Article 28 of the draft Order would authorise Network Rail to take temporary possession of:

- Land specified in Schedule 12 for the specific purpose set out in that Schedule.
- Any other land within the Order limits, where no notice of entry (s11(a) Compulsory Purchase Act 1965) has been served and no General

Vesting Declaration (s4(b) Compulsory Purchase (Vesting Declarations) Act 1981) has been made.

3.2.15 Powers of temporary possession are not limited to the Scheduled Works and extend more generally to the Authorised Works, for example allow for temporary possession powers in relation to works permitted separately to the Order which are listed in Core Document 18. This includes the following works which can be carried out under permitted development rights under Part 18 of the Town and Country Planning (General Permitted Development) England Order 2015:

- Reconstruction of Kirkgate Bridge HUL4/47
- Reconstruction of Marsh Lane Bridge HUL4/44
- Reconstruction of Osmondthorpe Lane Bridge HUL4/32

Furthermore temporary powers are sought in relation to the following work which will be consented via separate planning permission:

- Construction of new access road near Barwick Road, Garforth to enable permanent closure of Garforth Moor Level Crossing.

Diversion of Public Rights of Way (PRoW) & Acquisition of New Rights

3.2.16 The draft Order provides for the stopping up of five level crossings, with public rights of way over each level crossing to be extinguished with new public rights of way for four of the level crossings. The level crossings to be closed are Peckfield Level Crossing, Highroyds Wood Level Crossing, Garforth Moor Level Crossing, Barrowby Lane Level Crossing and Barrowby Foot Level Crossing.

3.2.17 Furthermore the Order would allow Network Rail to extinguish any private rights that exists over these level crossings. In the case of the Garforth Moor Level Crossing, the Order provides for a replacement private access route through the acquisition of new private access rights across plots 10-001 to 10-004 for the benefit of adjacent allotment holders, to facilitate the closure of the level crossing.

3.2.18 Article 25 of the Order contains a right for Network Rail to acquire easements or other rights over any land which it is authorised to acquire under Article 22. Where Columns (1) and (2) of Schedule 10 limit the powers sought to acquisition of new rights only, the new rights are limited to the purposes set out column (3) of that Schedule.

Key Order Schedules relating to Property

3.2.19 The key schedules relating to property matters are:

- Schedule 1 – Scheduled Works;
- Schedule 2 – Acquisition of Land for Ancillary Works;
- Schedule 6 – Streets to be temporarily stopped up
- Schedule 10 – Acquisition of New Rights Only
- Schedule 12 – Land of which temporary possession may be taken
- Schedule 13 – Temporary use of land for Access

Summary

3.2.20 If approved, the Order will therefore include powers to enable Network Rail to take land on a permanent and temporary basis, impose rights on land, extinguish rights, undertake works affecting the highway and allow entry for survey and tree lopping purposes. The rights set out in the Order are all required to facilitate delivery of the Scheme.

3.3 Network Rail Approach to Land Acquisition

3.3.1 Network Rail will seek to minimise the amount of land to be permanently acquired via the Order.

3.3.2 The Order limits were produced based on the level of design achieved at the time the Order application was being developed. As Network Rail moves through to detailed design, it is likely that the land required for compulsory acquisition will be reduced. Network Rail will not take more land than is required for delivery of the Scheme and it will restrict itself to temporary use or acquisition of rights where those are sufficient to deliver the Scheme.

3.3.3 In general, Network Rail's intended approach will be to initially occupy land on a temporary basis, only looking to permanently acquire the necessary land once final acquisition boundaries are known or following construction of the Scheme.

3.3.4 In relation to gas main diversions, Network Rail are seeking permanent acquisition powers for land surrounding Work No. 2 (Austhorpe Lane Gas Main Diversion) and Work No. 6 (Ridge Road Gas Main Diversion). In both cases the exact alignment of the diverted gas main is yet to be determined, as such the limits of deviation allow for flexibility in the final route of the diversion. That said, Network Rail will only seek to use sufficient powers to

deliver these diversions, which is expected to include temporary possession during construction and acquisition of rights for the new diverted route. With regards to the acquisition of these rights, Network Rail may, with the consent of the Secretary of State, transfer its powers to acquire rights for utilities to the relevant utilities company under Article 25 (6) of the Order.

4 COMPENSATION PROVISIONS

- 4.1.1 Where Network Rail exercises powers in the Order to acquire land or rights, the Compensation Code will apply subject to the modifications set out in Schedule 11 of the Order as summarised in paragraph 4.1.5.
- 4.1.2 The Compensation Code is a series of legislation and case law governing the procedures of compensation following compulsory purchase. The main statutes are the Land Compensation Act 1961, the Land Compensation Act 1973, the Acquisition of Land Act 1981 and the Compulsory Purchase Act 1965.
- 4.1.3 All parties with an interest in land on or over which rights are created (save for public rights of way under Article 17) or who have land rights taken from them, will be entitled to claim compensation in accordance with the Compensation Code, which provides a consistent approach to the assessment of fair compensation.
- 4.1.4 In such cases, compensation is claimable for:
- Market Value of Land Taken – in accordance with Rule 2, S5 Land Compensation Act 1961, ignoring any increase or decrease in value caused by the Scheme or the prospect of the Scheme.
 - Injurious affection and severance – any loss in value of the landowner's retained property caused by it being severed from the land acquired, or by the Scheme itself.
 - Disturbance – any losses caused by being disturbed from possession of the land taken and other losses which are not based on the value of the land. Compensation is also payable to investment owners, not in occupation, relating to the replacement acquisition of an interest in other land in the United Kingdom.
 - Loss Payments – additional statutory amounts depending on the type of property and occupation.
 - Professional Fees – for the negotiation of compensation following the use of Order powers.

- 4.1.5 Schedule 11 of the Order modifies the Compensation Code and Compulsory Purchase procedures that apply in relation to the compulsory acquisition of a right over land by the creation of new rights. In particular, they have the effect of firstly altering the injurious affection provisions, within Section 7 of the Compulsory Purchase Act 1965, so as to apply to the acquisition of rights, and, secondly applying the statutory procedures relating to the compulsory acquisition of land and interests in land, to the acquisition of rights under the Order. These modifications have precedent in Transport and Works Act Orders that have previously been made by the Secretary of State.
- 4.1.6 Where Network Rail takes temporary possession of land through the use of powers contained in Article 28, paragraphs 5 to 7 of this article provide an ability for impacted owners and occupiers to claim for any loss or damage arising from the exercise of the powers in this article. Paragraph 6 provides that any dispute as to a person's entitlement under Paragraph 5, or the amount of compensation, shall be determined by the Upper Tribunal under Part 1 of the Land Compensation Act 1961.
- 4.1.7 Similar compensation provisions are set out in Article 29 relating to temporary possession for maintenance purposes.
- 4.1.8 Compensation provisions relating to the creation of new public rights of way, following the closure of level crossings, are set out in Article 17 of the Order.
- 4.1.9 Article 37 contains compensation provisions relating to the use of powers to lop trees overhanging the authorised works.

5 LANDOWNER ENGAGEMENT AND NEGOTIATIONS TO ACQUIRE PROPERTY & RIGHTS

- 5.1.1 As part of the process of consultation and engagement, Network Rail consulted and sought to engage with those parties who held land interests that had the potential to be included within the Order, presenting an opportunity for discussions on our proposals from an early stage in the process. More details on the consultation and engagement process can be found in the Consultation Report (**CD 1.07**).
- 5.1.2 As part of the consultation process, Network Rail engaged in discussion with property interest holders and other affected parties with a view to reviewing any opportunities for early acquisition of land where appropriate.
- 5.1.3 It is worth noting that as the Scheme has been developed the Order Limits have been adjusted following engagement with landowners. One particular example of this was the positioning of the Manston Lane compound which was adjusted following consultations with the landowner, Leeds City Council, and other stakeholders.

- 5.1.4 Network Rail has been in negotiation with those landowners with property interests who are subject to compulsory purchase with a view to reaching agreement with them, in particular those who have lodged an objection to the Order and I consider each of those objectors in section 7 of my proof.
- 5.1.5 Network Rail have sought where possible to reach agreement with landowners. In addition there are further negotiations along the route which have reached an advanced stages with interested parties, with draft terms exchanged. In these cases, and in cases where licence agreements have been completed, the land in question has remained in the Order limits to ensure delivery of the scheme if agreed heads of terms don't ultimately progress to legal agreement or in the event that a licence agreement is not complied with or is terminated for any reason.

6 HUMAN RIGHTS

- 6.1.1 Article 1 of the First Protocol to the European Convention on Human Rights states that "Every natural or legal person is entitled to peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties".
- 6.1.2 Article 1 is a qualified right in that no one shall be deprived of his possessions "except in the public interest and subject to the conditions provided for by law".
- 6.1.3 The compulsory acquisition of land for the railway purposes specified in the Order is authorised by, and subject to, the Transport and Works Act 1992 (the "1992 Act"). By enacting the 1992 Act the Government has determined that, subject to procedural safeguards, it can be in the public interest that individuals be deprived of their land for railway purposes. The procedural safeguards are provided by the 1992 Act and the Transport and Works (Inquiries Procedure) Rules 2004 which enable objections to be raised to compulsory acquisition and considered by an independent inspector. In addition, where land is authorised to be compulsorily purchased by the making of an order under the 1992 Act, compensation will be payable under the Compensation Code as applied by that order (I consider the compensation provisions in Section 4 above). Where disputes as to the amount of compensation arise, these may be referred for independent consideration by the Lands Chamber of the Upper Tribunal.

- 6.1.4 The Order is being pursued in the public interest, as is required by Article 1 of the First Protocol where compulsory acquisition of property is concerned. The need for the Scheme and the public benefits it would realise are set out in the Proof of Evidence of David Vernon (**CD 7.02**).
- 6.1.5 The inclusion of compulsory purchase powers contained within the Order is necessary to enable the Scheme to be implemented and for Network Rail to deliver the Scheme within a reasonable timescale.
- 6.1.6 The land and rights to be acquired, which are included in the Order, have been carefully considered and reviewed as part of the application process. All reasonable efforts have been undertaken by Network Rail to reduce the impact of the Scheme with the land and rights contained within the Order being only those necessary to meet the construction and design requirements of the Scheme.
- 6.1.7 Permanent and temporary powers are being sought to deliver the authorised works summarised in section 3.2 of this proof.
- 6.1.8 In all cases, acquisition powers will be used only where necessary to deliver and maintain the Scheme. Network Rail will ensure this by initially occupying land via temporary possession powers, only using permanent acquisition powers when the final acquisition boundaries are known or once construction has completed.
- 6.1.9 For these reasons, it is considered that there is a compelling case in the public interest for the Order powers sought, and that the railway purposes for which the powers are sought are sufficient to justify interfering with the human rights of the landowners proposed to be affected. The Order, including the requirement to pay compensation, strikes a fair and proportionate balance between the private interests of the landowners and the public interest in securing the benefits of the Scheme to the national railway network. Therefore, the interference with Convention Rights is considered to be compellingly justified in the public interest.

7 OPEN SPACE

- 7.1.1 Network Rail has identified that fifteen plots of land within the order limits could, taking a precautionary approach, fall within the definition of 'open space' in the Acquisition of Land Act 1981. These are identified in the Book of Reference **CD 1.08**.

Open Space Plots - Temporary Possession Powers Only

- 7.1.2 Seven of the fifteen plots (5-008, 5-009, 7-017, 12-007, 12-010, 13-006 and 13-008 as shown on Sheets 3, 4, 12 and 13 of the Works and Land Plans **CD 1.09**), are only subject to the powers of temporary use in articles 7 and 28 of the draft Order. These plots are accordingly listed in Schedule 12 to the draft Order.

Open Space Plots - Acquisition of Rights Only

- 7.1.3 In respect of two of the fifteen plots (7-017A and 7-016 as shown on Sheet 4 of the Works and Plans **CD 1.09.04**) powers are limited to the acquisition of rights set out in Schedule 10 of the Order. These rights include the right to install a gas pipe in the subsoil including related apparatus at surface level and right of access on foot and for vehicles including with machinery to maintain such gas pipe and apparatus.

Open Space Plots – Acquisition of land - S19 Certificates

- 7.1.4 Acquisition powers are being sought over six of the fifteen plots in the Order. This includes four plots at Penny Pocket Park and two plots at Austhorpe Lane.
- 7.1.5 At Penny Pocket Park, these plots are 2-001, 2-002, 2-003 and 2-004 as shown on Sheet 1 of the Works and Land Plans **CD 1.09.01** and Book of Reference **CD 1.08**. At Austhorpe Lane, acquisition rights are being sought over plots 7-016B and 7-010 (Sheet 4 of the Works and Land Plans **CD 1.09.04**).
- 7.1.6 Network Rail measure the total area of the Penny Pocket Park plots to be 191.9 square metres (229.5 square yards). This has been calculated as follows:

Plot 2-001: 25.5m x 5m = 127.5m²

Plot 2-002: 7.25m x 3.1m = 22.5m²

Plot 2-003: 4m x 5m = 20m²

Plot 2-004: 7.3m x 3m = 21.9m²

Total: 191.9m² (229.5 sq yards)

- 7.1.7 As a result, Network Rail applied for a certificate under section 19(1)(b) of the ALA. Network Rail received notice on 25 September 2023 that the Secretary of State was minded to grant the certificate.

7.1.8 At Austhorpe Lane, Network Rail measure the total area of plots 7-016B and 7-010 to be 131.06 square metres (156.7 square yards). As a result, Network Rail applied for a certificate under section 19(1)(b) of the ALA. Network Rail received notice on 9 January 2024 that the Secretary of State was minded to grant the certificate.

7.1.9 If the above certificates are granted, the certificates would mean the Order (if made) would not be subject to special parliamentary procedure.

8 CONSIDERATION OF OUTSTANDING OBJECTIONS

8.1 Summary

8.1.1 A total of 136 known parties hold a legal interest in the land affected by the Order. From these interested parties Network Rail has received 8 objections (one of which has been withdrawn) and 2 representations (one of which has been withdrawn).

8.1.2 There are a further 21 objections and 5 representations from parties with no legal interest in land included in the Order.

8.1.3 There have also been 3 letters of support for the Scheme.

8.2 Objection 30 – Jean Makin

8.2.1 An objection was submitted on behalf of Ms J Makin on 17th August 2023 with regards to a temporary access route required in relation to the works to demolish Brady Farm Bridge (HUL4/15), the reconstruction of Ridge Road Bridge (HUL4/14) and the diversion of the gas main at Ridge Road.

8.2.2 OBJ/30 is the freeholder of plots 11-012, 11-012a, 11-012 and 11-012a shown on the Works and Land Plan (**CD 1.09** – Sheets 8, 9 and 9). All of the parcels in OBJ/30 ownership are required on a temporary basis associated with the demolition of Brady Farm Bridge, Work No. 5 (Ridge Road Bridge) and Work No. 6 (Ridge Road Gas Main Diversion).

8.2.3 The objection notes that the powers applied for would allow Network Rail to take temporary possession of an existing farm access which is the only practical access to a field of 285 acres.

8.2.4 In response to this objection Network Rail confirmed in a letter dated 25th August 2023 (see Appendix B of this proof) that Network Rail do not wish to prevent OBJ/30 from using the remainder of their land during the period of the works. Within this letter a commitment was made to ensure OBJ/30 and any tenants would retain access via the existing field entrance for the duration of the works.

8.2.5 A draft licence agreement has been sent to the agent representing OBJ/30

with a view to reaching formal agreement for the land required temporarily within the ownership of OBJ/30. To-date no response has been to this draft licence.

8.3 **Objection 03 – Stephen Nightingale**

8.3.1 OBJ/03 is the freeholder of 77 Austhorpe Road, which adjoins the order limits at Austhorpe Lane Bridge. As the land on which the highway sits is unregistered at HM Land Registry, it has been assumed that neighbouring properties own up to the midway point underneath the public highway. As a result it is assumed that Obj03 as freeholder of 77 Austhorpe Road, has a subsoil interest in plots 7-001 and 7-002 shown on the Works and Land Plans (**CD 1.09.04**). These plots are required in relation to Work No. 1 (Austhorpe Lane Bridge) and Work No. 2 (Austhorpe Lane Gas Main Diversion).

8.3.2 The objection requested more information regarding the Scheme.

8.3.3 In response Network Rail sent a letter dated 22nd August 2023 (see Appendix D of this proof) which provided detail of the works being undertaken at Austhorpe Lane Bridge, confirming that powers were being sought across the adjoining public highway for the purposes of a gas main diversion.

8.3.4 As part of the gas main diversion, the assumed subsoil interest of OBJ/03 would likely be impacted with rights being acquired underneath the highway for the operation, repair and maintenance of the new gas main.

8.3.5 Within the response to OBJ/03 it was however confirmed that no part of the residential property owned by OBJ03 would be required for the scheme, whilst access would be maintained to the property at all times.

8.3.6 Network Rail have received no further correspondence from OBJ/03 following this letter.

8.4 **Objection 04 – Ms Klima**

Legal Interest and Order Powers

8.4.1 OBJ/04 is understood to be the sister of one of the freeholders of White House Farm, Nanny Goat Lane, Garforth which is partly included in the Order within the following plots shown on the Works and Land Plan (**CD 1.09.06**): 9-004, 9-005, 9-005a, 9-005b, 9-005c, 9-005d, 9-005e, 9-013c and 9-013.

8.4.2 The parcels within the ownership of OBJ/04's sister are required in relation to Work No.4 (Barrowby Lane Bridge) which includes the construction of a new bridleway bridge to enable the closure of Barrowby Lane Level Crossing and Barrowby Foot Level Crossing. The powers sought within these plots include

acquisition powers over plots 9-004 and 9-005, which have a combined area of approximately 0.71 acres, for the structure of the new bridge and new bridleway connection. All remaining parcels with the ownership of OBJ/04 are required on a temporary possession basis during the construction of the Work No. 4.

Summary of Objection

8.4.3 The objection dated 5th August 2023 was submitted for the following reasons:

- The required land take for the new bridge structure, noting that the land is currently used to graze horses. It is furthermore claimed there is a shortage of land for this use in the local area.
- Visual impact on local amenity and landscape
- Impact on wildlife and trees
- Financial cost to tax payers
- Concerns regarding the new bridge attracting anti-social behaviour and pollution of the local area.

Response to Objection

8.4.4 Network Rail has written to Ms Klima in response to her objection, and has explained the reasoning why both Barrowby Lane and Barrowby Foot Level Crossings need to be closed. As is explained in the Proof of Andrew Cunningham (**CD 7.23**) both level crossings pose a serious risk to users, with an increased risk following the faster and more frequent trains that the TRU scheme will enable.

8.4.5 As a result of Barrowby Lane Level Crossing being the route of a public bridleway, the diverted route needs to allow for all bridleway users including horse riders. The requirement to divert the bridleway, together with a review of the current usage of the level crossings, has informed the decision to propose a bridleway bridge to providing a long-term solution for maintaining access for all users. This is addressed in more detail in the Proofs of Evidence of Michael Westwood (**CD 7.26**) and Suzanne Bedford (**CD 7.29**).

8.4.6 OBJ/04 noted particular concerns regarding the level of land take to deliver the new bridleway bridge. Permanent acquisition powers are being sought over a total 0.71 acres of land within the ownership of OBJ/04's sister as described in paragraph 7.4.2. While compulsory powers are being sought over the areas described, Network Rail will only acquire sufficient land for the proposed works, minimising this land take where possible.

8.5 **Objection 06 – Ashdale Land and Property Co Limited**

Legal Interest and Order Powers

- 8.5.1 OBJ/06 are the freeholders of part of Lower Peckfield Lane in Micklefield, in particular plots 12-001 and 12-002 shown on the Works and Land Plan (**CD 1.09.12.01**).
- 8.5.2 As part of the proposals to close and divert the Peckfield Level Crossing, Network Rail are proposing to undertake improvement works to Lower Peckfield Lane, including the construction of new passing places. This private track currently provides the sole vehicular access to 7 railway cottages adjoining the level crossing. Access is also required along Lower Peckfield Lane to undertake these works and to facilitate the close of the level crossing.
- 8.5.3 As a result of these works, permanent acquisition powers are being sought over plots 12-001 and 12-002 in the ownership of OBJ/06 and the remainder of Lower Peckfield Lane.

Summary of Objection

- 8.5.4 OBJ/06 has submitted an objection to the Order in a letter dated 18th August 2023 on the basis they consider the proposed area of acquisition significantly exceeds the requirements of Network Rail to create a limited number of passing places.
- 8.5.5 It is stated that they have plans to develop their land contained in Land Registry Title WYK788662 which includes land on both sides of Lower Peckfield Lane. In order to develop the land OBJ/06 notes that it is of the utmost importance for them to retain both vehicular and pedestrian access across private track to access both areas of land, whilst retaining the ability to install services and utilities. As a result they wish to retain ownership of the lane.

Response to Objection

- 8.5.6 In response to the objection Network Rail sent a letter dated 11th September 2023 (see Appendix C of this proof). The letter confirmed the requirement to undertake improvements to Lower Peckfield Lane including the creation of passing places. On the basis the improvements and passing places are permanent works, permanent acquisition powers have been applied for via the Order. That said, it was confirmed Network Rail have no requirement to retain ownership of plots 12-001 and 12-002 shown on the Works and Land Plan (**CD 1.09.12.01**), following the completion of works.

8.5.7 In order to address the objectors's concerns, within the letter dated 11th September 2023 Network Rail stated a willingness to reach agreement to undertake these works without acquiring the freehold of the plots in question, subject to agreeing a licence agreement.

8.5.8 We are currently in negotiations with OBJ/06 with regards to this licence agreement, which if completed would allow the exercise of powers of permanent acquisition over plots 12- 001 and 12-002 to be avoided.

8.6 **Objection 07 – Leeds City Council**

Legal Interest and Order Powers

8.6.1 Obj/07 (Leeds City Council) have an interest in multiple sites across the Order. Excluding adopted public highway, they have a freehold or leasehold interest in the principal locations listed below. The relevant sheet of the Works and Land Plan (**CD 1.09**) is listed along with the powers being applied for over the parcels where Leeds City Council have an interest.

- Kirkgate Viaduct (sheet 1) – temporary possession powers
- Penny Pocket Park (sheet 1) – permanent acquisition powers
- Neville Hill Access Road (Sheet 2) - permanent acquisition powers
- Osmandthorpe Lane Bridge (Sheet 3) – temporary possession powers
- Austhorpe Lane Bridge (Sheet 4) – permanent acquisition and temporary possession powers
- Manston Lane Compound & Crawshaw Woods Bridge (Sheet 5) – permanent acquisition and temporary possession powers
- Barrowby Lane Level Crossing (Sheet 6) – permanent acquisition and temporary possession powers
- Phoenix Avenue TSC & Temporary Compound (Sheet 11) - permanent acquisition and temporary possession powers
- Highroyds Wood Level Crossing (Sheet 14) – temporary possession powers

8.6.2 As with all parcels within the Order, Network Rail will only seek to use permanent acquisition powers where necessary, limiting the use of land to temporary possession wherever possible.

Summary of Objection & Responses

- 8.6.3 Obj/07 submitted an objection to the Order via a letter dated 18th August 2023. Within this objection the following concerns were raised with regards to the approach to land acquisition.

Property Objection 1: Open Space

- 8.6.4 The Council questioned on what basis Network Rail is able to justify the position that no replacement land is required in accordance with Section 19 of the Acquisition of Land Act 1981.
- 8.6.5 An example of the open space affected as a result of the Scheme was the land within the Order at Penny Pocket Park which they calculate to be 382 square metres (456 square yards), which is in excess of the 250 square yard threshold defined by s19 of the ALA 1981.
- 8.6.6 Network Rail's approach to open space is detailed in Section 7 of this proof of evidence, which deals in particular with the land required at Penny Pocket Park.

Property Objection 2: Overall Justification for Land Acquisition

- 8.6.7 The Council consider Network Rail's Overall Justification for its compulsory acquisition powers to be inadequate and not in compliance with the tests of necessity, proportionality and being in the public interest. It is claimed that plots have been included in the Order for which no works are proposed.
- 8.6.8 In particular Obj/07 objects to Network Rail seeking powers to acquire land for works consented outside the Order, overall they disagree with this approach and are confused by the definition of Authorised Works. As a result they consider more detailed information should be provided as to the specifics for what the land is required for.
- 8.6.9 Examples are provided in the objection of specific acquisitions they argue are not sufficiently justified. One of these sites includes the proposed land sought for the proposed Neville Hill Access Road. Obj/07 considers the permanent need for this road is not a result of TRU works.
- 8.6.10 In addition, Obj/07 considers there are instances where Network Rail have not sought sufficient land to undertake the required works to the correct standard.
- 8.6.11 In response, Network Rail have only included land within the Order limits which is judged, based on the current level of design, to be required to deliver the Authorised Works. Where possible Network Rail have sought to limit the

powers to temporary possession powers, rather than seeking acquisition powers.

- 8.6.12 A summary of the Authorised Works, is provided in Section 3.2 of this proof of evidence, whilst further detail of these works is also set out in Section 9 of the Statement of Case (**CD 4.01**). Further details of the construction of these works are set out in Paul Harrison's (**CD 7.05**) proof evidence.
- 8.6.13 The ability for Network Rail to seek temporary and permanent acquisition powers in relation to works consented outside of the Order is covered in the proof of Tony Rivero (**CD 7.14**).
- 8.6.14 With regards to engagement on the works being progressed, Network Rail have undertaken regular and comprehensive engagement with Obj/07. This included a virtual meeting with Obj/07 held on 20th October 2022, during which Network Rail provided an overview of the works being progressed via this Transport and Works Act Order, which have been supplemented by regular meetings discussing the works required.
- 8.6.15 In addition, on 12th December 2022 Network Rail provided a schedule of land requirements across the TRU East (E2-4) Project, including those in this Order, impacting land owned by Obj/07. This included detailed draft plans, a summary of the type of land requirement and the associated works. Positive feedback was provided by Obj/07 to Network Rail on the information provided in this schedule. Network Rail have since provided an updated version of this schedule to the Council on 2nd June 2023.
- 8.6.16 The Schedule of Land and Rights (see Appendix A) contains a full breakdown of the powers being applied for across all plots within the Order and the works associated with them.
- 8.6.17 Network Rail are in negotiations with the Council regarding the land required within the Order, with agreement having been reached on the Manston Lane Compound.
- 8.6.18 Reference is also made in the objection to the Neville Hill Access Road, which Obj/07 considers is only required temporarily for the purposes of TRU. A meeting with representatives of Obj/07 was held on 19th July 2023 which ran through the reasoning why the access was required on a permanent basis as a direct result of TRU works.
- 8.6.19 First and foremost Neville Hill Up Sidings (NH Sidings) are currently accessed from Pontefract Lane via Red Lane as shown by the red line on Image 1 below. As part of the TRU East electrification of the Leeds to Micklefield

Railway, a Track Sectioning Cabin (TSC) is required to regulate the power supply to the overhead electric wires in the local area and thus to enable electrification of the line. This TSC, installed in Autumn 2023 at the NH Sidings, impedes and restricts the existing access east of the TSC into the NH Sidings. As a result of the installation of this TSC, forming part of TRU, a new access is therefore required in order to reprovide an unimpeded access route into the sidings. The construction of the TSC and the resulting restriction on the existing access is the primary reason a new access road needs to be constructed. The Newmarket Approach has been identified as the only viable solution for providing this access into the sidings.

Image 1: Existing Access Route via Red Lane



- 8.6.20 Secondly, in order for the TRU East to deliver line speed improvements, the rail connection into the Marsh Lane Goods Yard (MLGY), located near to the NH Sidings, will need to be permanently removed. Part of the MLGY is formally designated as a Strategic Freight Site (SFS), with Tarmac having recently occupied the site. As a result of removing the rail connection into the MLGY, Network Rail have an obligation to relocate the SFS designation to another site, relocating its most recent occupier Tarmac. The NH Sidings have been chosen as the preferred option. In order for the NH Sidings to be used as a SFS a new permanent access into the sidings will be required at the proposed location to facilitate the increased vehicular movements created by the sidings being used for freight purposes.
- 8.6.21 Accordingly, a new permanent access route into the NH Sidings is required as a result of the TRU East project.

8.6.22 In summary, the powers sought in the Order are limited to those which are necessary to deliver the Authorised Works. As described in Section 3.3 of this proof, once the project progresses to a detailed design stage, Network Rail will only seek to acquire sufficient land to deliver the Authorised Works.

8.7 **Objection 09 – Makins Enterprises Limited & Christopher Makin**

Legal Interest and Order Powers

8.7.1 Makins Enterprises Limited is the freeholder of plots 11-005, 11-005a, 11-006, 11-006a and 11-015 shown on the Works and Land Plan (**CD 1.09.08** and **CD 1.09.09**) situated at Sturton Grange, Ridge Road, Garforth. Plot 11-014 is held in separate ownership by Christopher Makin, who is a director of Makins Enterprises Limited.

8.7.2 The Order includes temporary and permanent acquisition powers over plots within the ownership of Makins Enterprises Limited and Christopher Makin. Plots 11-005, 11-005a, 11-006, 11-006a are included in the limits of deviation for Work No. 6 (Ridge Road Gas Main Diversion). The Order would therefore provide the ability to permanently acquire these parcels for the purpose of the gas main diversion. It is worth noting however that Network Rail have no requirement to retain ownership of these parcels following the completion of works, subject to the granting of an easement for the diverted gas main.

8.7.3 The Order also includes parcel 11-015 which Network Rail require temporary possession of for the purposes of demolishing Brady Farm bridge.

8.7.4 The Order also provides for the extinguishment of rights over Brady Farm Bridge itself, shown by plot 11-013, which is in the ownership of Network Rail.

Summary of Objection

8.7.5 In a letter dated 23rd October 2023, an agent acting on behalf of OBJ/09 raised an objection on the following grounds:

- a) Brady Farm Bridge is a Grade II listed structure and removal of it will be of detriment to the heritage of this area.
- b) It is claimed Brady Farm Bridge has been used by the Makin family since 1968 to access land on either side of the railway and to get water from Sturton Grange over the railway. In the 1980s Peckfield House Farm (the land on the south side of the railway line) was connected to Brady Farm's irrigation system via a water pipe across Brady Farm Bridge. The removal of the water pipe will sever the irrigation system between the two farms. It is claimed that due to climate change the need for this water pipe will increase into the future. It argued that

Network Rail have not discussed or suggested any alternative ways of keeping the water pipe in situ or re-locating it.

8.7.6 In a Statement of Case dated 16th November 2023, submitted by OBJ/09, a third ground of objection was raised with regards to:

- c) Concerns over the impact the Ridge Road Bridge and Ridge Road Gas Main will have on their business given the Ridge Road Bridge provides the main access to the farm.

Response to Objection

8.7.7 Network Rail have had ongoing engagement with OBJ/09 since May 2022 with regards to the demolition of Brady Farm Bridge.

Water Pipe

8.7.8 In response to part b) of Obj/09's objection, in summary Network Rail consider the following to be the case:

- The water pipe in question does not serve farmland in the ownership or occupation of Obj/09, as such its removal would not impact Obj/09's operations or landholding.
- The water pipe is not currently in use and we understand has not been in use for at least 5 years.
- This sub-surface water pipe was installed without the Network Rail relevant consents, as such Obj/09 is not considered to hold any rights to use this pipe.

8.7.9 The water pipe in question provides the ability to transfer water from the north side of the railway at Brady Farm Bridge (known as Sturton Grange Farm) to the land on the south side of the railway (known as Peckfield House Farm). Save for an interest in mines and minerals, OBJ/09 has no interest or occupation rights over Peckfield House Farm, which is owned by a separate party to Mr Makin (it is owned by Obj/03, whose objection is discussed in section 8.2 above) and run as a separate land holding. As such the water pipe does not serve land in OBJ/09's ownership or occupation.

8.7.10 Summarising the recent ownership status of land at this location, until 2006 the land either side of Brady Farm Bridge has held in single ownership and farmed as a single holding. Network Rail understands that in the 1980s a water pipe was installed on this Network Rail owned bridge, without the relevant Network Rail consents..

- 8.7.11 In 2006 the land on the south side of the railway (Land Registry Title Number: WYK586916), known as Peckfield House Farm, was transferred to separate ownership and since this date has been farmed as a separate farm holding.
- 8.7.12 Network Rail consider if there is any land which benefits from any right to take water through the pipe (which, I am advised by Network Rail's Liabilities Team that they do not consider to be the case) that land would be Peckfield House Farm south of the railway, which OBJ/09 holds no interest with the exception of subsoil rights. As a result it is considered that any right to take water through the pipe would vest in the land on the south side of the railway. It is Network Rail's understanding, that since Peckfield House Farm was transferred to separate ownership, the water pipe in question has not been used. From communications I have had with Obj/03's agent, it is my understanding that the pipe is not currently used and has not been used for a number of years.
- 8.7.13 As a result of land at Peckfield House Farm being included in the Order, we have consulted with the landowner on the south side with regards to the demolition of Brady Farm Bridge. Following this consultation no formal objection has been raised by the landowner on the south side to either the removal of the water pipe or the demolition of the bridge.
- 8.7.14 With regards to the installation of the pipe, I am informed the pipe was laid without the consent of Network Rail's predecessor, British Rail. The pipe is not visible at ground level, with it being installed sub-surface, as such not visible upon inspection of the bridge. Network Rail has no record of any consent having been sought or granted for the pipe. As such, I have been advised by Network Rail's Liabilities Team that they consider there could be no claim for an easement to have arisen by prescription, and that the pipe is seen as a trespass.
- 8.7.15 It is therefore Network Rail's position that Obj/09 does not enjoy any private right.

Brady Farm Bridge – Accommodation Bridge

- 8.7.16 As to Brady Farm Bridge itself, this was built as an accommodation work to make good the severance of a private estate road that connected land on the north side of the line to fields to the south of

the railway. I have been advised by the Network Rail Liabilities Team that the rights over the bridge were therefore granted to and for the benefit of the land to the south of the railway. As I have stated above, Obj/09 does not hold any interest in the land to the south beyond sub-surface rights.

8.7.17 Whilst the Obj/09 may previously have held land to the south of the railway as well as the north, that commonality of landholding was severed in 2006 when the land to the south of the railway (Land Registry Title Number: WYK586916) was transferred to separate ownership.

8.7.18 As a result of the land on either side of Brady Farm Bridge now being in separate ownership, and farmed as separate holdings, it is considered the need for the bridge is now redundant.

Ridge Road Bridge & Gas Main Works – Impact upon Business

8.7.19 In response to part c) of their objection, submitted in their Statement of Case, Network Rail will seek to minimise the impact of the works on OBJ/09's business during the course of the reconstruction of Ridge Road Bridge and the adjoining gas main diversion.

8.7.20 A proposed diversionary route is being proposed by Network Rail, which will ensure access is maintained to the entrance of Obj/09's site during the bridge reconstruction works. Further details can be found in Appendix IIB in Volume 3 of the Environmental Report: Technical Note: Transport Assessment – Ridge Road Temporary Bridge Closure (**CD 1.16.02**).

8.7.21 The Order also includes a section of Obj/09's private access road, within Plot 11-005 on Sheet 9 of the Works and Land Plan (**CD 1.09.09**). This plot is required in connection with the diversion of the gas main, with temporary use required of the plot along with an easement for the new underground pipe. Network Rail are not intending on closing or restricting access along this road, however will engage with Obj/09 to ensure any disruption during the works is minimised.

8.8 Objection 19 – John Chapman, Andrew Chapman and David Leeming

Legal Interest and Order Powers

8.8.1 Obj/19 are the freeholders of Land Registry title WYK297984 which incorporates plot 10-003 and 10-004 at Garforth Moor Level Crossing (Sheet 7 of the Works and Land Plans – **CD 1.09.07**).

8.8.2 In order to enable the Garforth Moor Level Crossing to be formally closed, Network Rail are seeking powers for a new permanent right of way across these parcels for the purposes of establishing a permanent access to adjoining allotments previously access over the level crossing.

- 8.8.3 As part of the Order Network Rail will undertake works to the existing track in this location, laying a crushed hardcore material down in order to create a permanent track that can be used by the allotment holders. Maintenance for the track will fall on Network Rail.

Summary of Objection

- 8.8.4 An objection was served on Obj/19's behalf on Tuesday 29th August on the following grounds.
- 8.8.5 Firstly Obj/19 stated that they are in the process of negotiating a Promotion Agreement over land within title WYK297984, including land within Order limits. It is claimed once the Promotion Agreement has been completed, the developer will make a planning application which could include land within the Order. On that basis it is claimed the Order could have the effect of sterilising or adversely affect the proposed development.
- 8.8.6 Secondly it was stated that part of the Order limits are already used by users of allotments for an access route, due to the closure of the level crossing.
- 8.8.7 Finally, it was claimed that Network Rail have made no serious attempt to complete agreement, with recent correspondence having been ignored by Network Rail.

Response to Objection

- 8.8.8 Network Rail are seeking a permanent right of access across plots 10-001, 10-002, 10-003 and 10-004 shown on the Works and Land Plan (**CD 1.09.07**). This right of way would extend along the existing access track from Barwick Road, then running south along the existing field boundary within plot 10-003. The purpose of this right of access is to create a permanent means of access to the allotments adjoining Ob19's land, and thus enable the adjoining level crossing to be permanently closed.
- 8.8.9 As a result of the new access route being along the existing field edge, adjoining the route of an existing public footpath, Network Rail do not consider this new right would sterilise any future development.
- 8.8.10 The route of the access would run along the existing edge of Obj/19's field, where there is an existing public right of way. Plot 10-003, where a permanent access track would be created, is approximately 0.59 acres.
- 8.8.11 In light of this requirement being restricted to a right of way, with the vast majority of the objector's surrounding fields being unaffected, it is Network

Rail's view that the proposals are not likely to sterilise any future development the landowner wishes to bring forwards.

- 8.8.12 With regards to negotiations, to confirm Network Rail's preference is to negotiate this permanent right of way via agreement. I note that representatives of Network Rail previously met representatives of Obj/19 on 7th May 2021 to discuss the requirement. Following this meeting an email was sent by James Holdroyd of Network Rail on 23rd July 2021 making a formal offer for the right of way required.
- 8.8.13 In response to this email the surveyor acting on behalf of Obj/19 wrote on 3rd September 2021 to confirm that the Chapman family due to ongoing discussions with a developer, were not ready to enter into a long-term agreement with Network Rail. It was confirmed that they wished to leave the existing temporary licence arrangement in place, reverting back when matters had further progressed with the developer.
- 8.8.14 Most recently I have recommenced negotiations, meeting the agent acting on behalf Obj/19 on site to discuss terms on 16th November 2023. Negotiations are ongoing with a view to reaching a negotiated agreement.

8.9 **Objection 23 – James Parkinson**

- 8.9.1 This objection has now been withdrawn following correspondence with the objector.
- 8.9.2 OBJ/23 is the freeholder of 2 Croftdale Grove, Leeds, LS15 8EG which adjoins the order limits at Austhorpe Lane Bridge, with OBJ/23 holding subsoil rights underneath public highway in plots 7-001 and 7-002 shown on the Works and Land Plan (**CD 1.09.04**). These plots are required in relation to Work No. 1 (Austhorpe Lane Bridge) and Work No. 2 (Austhorpe Lane Gas Main Diversion).
- 8.9.3 The objection asked for more information to be provided regarding the Scheme.
- 8.9.4 In response further information was provided about the TRU Scheme and specifically regarding Work No. 1 and No. 2 at Austhorpe Lane. It was confirmed that road works would be required during the works, however access would be maintained to his property at all times.
- 8.9.5 Following this correspondence OBJ/23 withdrew their objection to the Order.

9 CONSIDERATION OF OUTSTANDING REPRESENTATIONS

9.1 Representation 06 – National Highways

- 9.1.1 On Monday 8th January 2024 Rep/06 removed their representation following the completion of a side agreement with Network Rail which addressed their concerns.
- 9.1.2 Rep/06 are the freeholders of plots 13-002, 13-003, and 13-005 at Highroyds Wood (see sheet 13, Works and Land Plan – **CD 1.09.13.01**). These plots consist of a private access road underneath the A1(M) motorway providing access to third party land.
- 9.1.3 Network Rail are seeking temporary access and temporary possession powers over these parcels of land for the purposes of carrying out the works required to divert the Highroyds Wood Level Crossing.

9.2 Representation 03 – Micklefield Parish Council

- 9.2.1 Micklefield Parish Council also raise concerns about the impact on the recreation ground of the creation of a new PROW on the recreation ground and removing that land from use by the general public.
- 9.2.2 Micklefield Parish Council, as trustee of Micklefield Recreation Ground Charity are recorded as the owners and occupiers of Plot 12-010 in the Book of Reference (**CD 1-018**). Plot 12-010 is listed in Schedule 12 to the draft Order (land of which temporary possession may be taken for the purposes specified in the column) and will be subject to the new public right of way to be created under Article 17 and Schedule 8 of the draft Order. The Parish Council will therefore retain ownership of that land, subject to the new public right of way, and subject to the compensation provisions contained in Articles 17 (for creation of the new public right of way) and 28 (for loss or damage during temporary use of the land).

10 CONCLUSIONS

- 10.1.1 The Order seeks powers over land at 17 locations between Leeds and Micklefield, with 136 known parties with a legal interest within the Order limits. As a result of early engagement there are 7 outstanding objections and 1 outstanding representation from parties with a legal interest within the Order limits.
- 10.1.2 The land and rights to be acquired and included in the Order have been carefully considered and reviewed. Where possible Network Rail have sought to limit the powers sought to temporary only. Where permanent acquisition powers are being applied for, Network Rail will seek to reduce the area

acquired following completion of detailed design to that which is necessary to deliver the scheme.

- 10.1.3 Of the remaining objections I am satisfied that Network Rail have sought to minimise any adverse impacts of the scheme and the compensation provisions within the Order will ensure that the objectors are compensated in accordance with the Compensation Code or as otherwise provided for in the Order.
- 10.1.4 In conclusion, I consider there to be a compelling case in the public interest for the Order powers sought, justifying the interference with the human rights of the landowners proposed to be affected.

11 WITNESS DECLARATION

- 11.1.1 I hereby declare as follows:
- 11.1.2 This proof of evidence includes all facts which I regard as being relevant to the professional opinion which I have expressed, and I have drawn the inquiry's attention to any matter which would affect the validity of that opinion.
- 11.1.3 I believe the facts which I have stated in this proof of evidence are true and that the opinions are correct.
- 11.1.4 I understand my duty to the Inquiry to help it with the matters within my expertise and I believe I have complied with that duty.

Signature & Date

A black rectangular box redacting the signature of Benjamin Thomas.

Benjamin Thomas

Date: 2nd February 2024