

**APPLICATION OF NETWORK RAIL FOR AN ORDER
UNDER THE TRANSPORT AND WORKS ACT 1992 FOR:**

The Network Rail (Leeds to Micklefield Enhancements) Transport and Works Act Order

(REF DPI/N4720/23/19)

OPENING SUBMISSIONS

On behalf of Leeds City Council

1. INTRODUCTION

- 1.1 Network Rail Infrastructure Limited ("**Network Rail**") has made an application for a Transport and Works Act Order for the Leeds to Micklefield ("**Application**") part of its works for the Transpennine Route Upgrade to improve rail transport links across the North of England.
- 1.2 The Application consists of:
 - 1.2.1 An application for a Transport and Works Act Order ("**Order**") which will include a range of powers including the acquisition of all necessary land and rights, the temporary use of land; the authorisation of works and deemed planning permission, the diversion or stopping up of public rights of way, environmental consents, closure of the level crossings and powers to alter public highways and to undertake street works;
 - 1.2.2 Four applications for listed building consents in relation to proposed works to a number of bridges; and
 - 1.2.3 Two applications for certificates in relation to open space pursuant to section 19 Acquisition of Land Act 1981.
- 1.3 Leeds City Council ("**the Council**") is the local planning authority and the local highway authority for the majority of the land that is subject to the Application. The Council is also a landowner affected by the Application.
- 1.4 On 18 August 2023 the Council submitted to the Department for Transport its objections to the Application ("**the Objection**"). The Council did make clear in its submission that it supported the Application in principle but that there were a number of issues with the Application that needed to

be resolved or mitigated against before the Council would be willing to withdraw its objection. That remains the Council's position at the opening of this Inquiry.

- 1.5 The Council submitted to the Department for Transport its statement of case on 17 November 2023 which set out an updated position in relation to the issues raised in its Objection ("**Statement of Case**"). This was followed by an addendum to the Statement of Case that was submitted on 19 January 2024 ("**Statement of Case Addendum**"). The Statement of Case Addendum was submitted to supplement the Statement of Case in particular in relation to the issue of the closure of the Peckfield Level Crossing.
- 1.6 Finally, on 6 February 2024 the Council submitted to the Inquiry its proofs of evidence in relation to the closure of the Peckfield Level Crossing, together with legal submissions in relation to the same.
- 1.7 The submissions are made and presented to the Inquiry in writing. Given the in principle support for the Order, with one principal issue outstanding in relation to the Peckfield Level Crossing, the Council has had to adopt a proportionate position for this Inquiry including in relation to the availability of resource and the protection of limited public funds. The effect of this is that it has necessarily limited the Council's ability to attend the Inquiry to the full extent that may be otherwise required. The Council has offered, and remains open to, attendance at a roundtable to discuss the closure of the Peckfield Level Crossing.

2. OBJECTIONS TO THE APPLICATION

- 2.1 The Council set out in its Objection its concerns with the Application. Since August 2023 progress has been made with Network Rail in resolving those concerns, such that Network Rail and the Council have submitted a statement of common ground ("**SoCG**") setting out the points agreed and still in issue between the parties. The latest SoCG is dated 23 February 2024.
- 2.2 In addition to the SoCG, Network Rail and the Council have reached agreement on a number of issues that are being dealt with by the parties through a highways agreement and an environmental mitigation agreement.

- 2.3 Both agreements are in agreed form and were completed on Friday 23 February 2024.
Accordingly the Council has withdrawn its objection in relation to the items that are addressed in the highways agreement, environmental mitigation agreement and the SoCG.
- 2.4 The only remaining issue upon which the Council objects is in relation to the closure of the Peckfield Level Crossing.
- 2.5 The Council has set out its reasons for its objection to the closure of the Peckfield Level Crossing in the proofs of evidence submitted by:
- 2.5.1 Robert Buckenham; and
- 2.5.2 John Booth, and
- and in the legal submissions made by its legal advisers Womble Bond Dickinson (UK) LLP.
- 2.6 The Council's position is that the Application for the Order should be modified in relation to the proposed closure of the Peckfield Level Crossing closure to provide for a suitable alternative in the form of a replacement bridleway bridge. The Council has submitted evidence from its public rights of way and highways officers setting out how the current proposals in the Application:
- 2.6.1 would sever the existing Public Bridleway Micklefield No. 8 with the provision of an alternative route which does not provide a safe, traffic free route for bridleway users;
- 2.6.2 would in relation to the alternative route see users having to, at points, enter onto the highway and share the same routes as vehicular traffic with a number of instances where the highway would need to be crossed, where there is no provision for safely crossing;
- 2.6.3 for the alternative route through the Micklefield Recreation Ground ("**MRG**") it is considered to be unsuitable and inconvenient for proposed users as:
- (a) the MRG has a number of mature trees present which introduces a risk of deadwood falling onto the public;
- (b) there is currently no lighting in the area and none proposed as part of the Application;

- (c) there is the potential for protected species to be inhabiting the scrub land adjacent to the MRG and the MRG itself;
- (d) the proposed alternative route through the MRG could pose a risk to users of the MRG and the bridleway, particularly where the route would run alongside the football pitches and in relation to horse-riders;
- (e) the proposed alternative route through the MRG would utilise the existing car park which is potentially more dangerous and hazardous for walkers and other bridleway users;
- (f) if the new public right of way is to be dedicated as a bridleway it will not be an appropriate width for users to pass each other conveniently and safely. Similarly if this is to be provided as a public footpath, it will not afford the same rights to horse riders and cyclists as they currently enjoy.

2.6.4 the effect on the local community of the loss of the railway crossing and associated connectivity within the public rights of way network, particularly when the population locally is rising due to new housing development is considered a relevant factor.

2.7 Accordingly, the Council's position is that the proposals do not meet the relevant tests in section 5(6) of the Transport and Works Act 1992 for the provision of an alternative and the Council invites the Inspector to make modifications to the Order accordingly, if this is to be granted.

3. OTHER ISSUES

3.1 The Inspector requested at the Pre-Inquiry Meeting ("**PIM**") that planning policy and heritage officers from the Council attend to assist the Inquiry, which the Council is happy to assist with.

3.2 For the avoidance of doubt, the Council does not have any outstanding objections in relation to planning or heritage and has submitted position statements in relation to these matters ahead of the Inquiry to give the Inspector an up-to-date view of the position.

- 3.3 Save for where asked for by the Inspector, the Council does not intend to make any further submissions in regard to the above points and is not providing witnesses to be cross-examined in relation to these points.

4. CONCLUSION

- 4.1 The Council remains of the view that its evidence on the closure of the Peckfield Level Crossing should be taken as read as the Council's submissions on this matter. The Council invites the Inspector to consider its evidence in relation to the closure of the Peckfield Level Crossing and to conclude that the Order should be made with modification to include a requirement for a replacement bridleway bridge.
- 4.2 The Council is happy to assist the Inspector and the Inquiry in so far as it is able to throughout the public sessions in relation to the planning policy and heritage issues, together with providing an update from project officers where a general update is required, and will assist.

Womble Bond Dickinson (UK) LLP

26 February 2024