

The Network Rail (Leeds to Micklefield Enhancements) Order

Summary of relevant Provisions relating to Open Space within the draft Order

- 1 The purpose of this note is to summarise the provisions in the draft Order relating to the use of compulsory acquisition powers in relation to Open Space. The relevant areas of open space are:
- (i) Land at Penny Pocket Park (**Penny Pocket Park OS**) - comprising the permanent acquisition of land in relation to plots 2-001, 2-002, 2-003 and 2-004 (as identified on Sheet 1)
 - (ii) Land at Austhorpe Lane (**Austhorpe Lane OS**) (sheet 4) – comprising:
 - a. the permanent acquisition of land in relation to plots 7-010 and 7-016B; and
 - b. the acquisition of new rights in relation to plots 7-016 and 7-017A

Penny Pocket Park OS

- 2 Penny Pocket Park OS is the subject of an application for a S19 Certificate pursuant to the Acquisition of Land Act 1981 (the **Act**); the application was made on 18 July 2023. The certificate is sought pursuant to S19(1)(b) of the Act on the basis that the area of open space to be acquired does not exceed 250 Square yards (i.e. 209 sqm) and therefore no exchange land is needed. The Secretary of State for Levelling Up, Housing & Communities (**Secretary of State**) issued a letter on 25 September 2023 confirming his intention to grant a certificate.
- 3 The total area of Penny Pocket Park OS is 191.9 sqm.
- 4 Articles 22 (*Power to acquire land*), Article 38 (*Open Space Land*) and Schedule 2 (*Acquisition of Certain Lands for Ancillary Works*) of the draft Order are the relevant provisions relating to the acquisition of land in relation Penny Pocket Park OS.
- 5 Article 22 (in combination with Schedule 2) confers the power to permanently acquire the Penny Pocket Park OS.
- 6 Article 38(1) confirms that from the date of acquisition the Penny Pocket Park OS will be discharged from all rights, trusts and incidents associated with its use as open space land.
- 7 Article 38(2) identifies the relevant plots comprising Penny Pocket Park OS and confirms (subject to such certificate being granted) that the Secretary of State has certified the open space is less than 209 square metres and accordingly the giving of exchange land is not necessary.

Austhorpe Lane OS

- 8 Austhorpe Lane OS is the subject of an application pursuant to S19 and Schedule 3 of the Act. The application was made on 21 December 2023. The certificate is sought pursuant to S19(1)(b) of the Act on the basis that the permanent area for acquisition being plots 7-010 and 7-016B does not exceed 209sqm and the giving of exchange land is not necessary.
- 9 Paragraph 6(1)(a) of Schedule 3 of the Act applies in relation to the new rights sought over plots 7-016 and 7-017A on the basis that the land, when burdened with the right, will be no less advantageous to those person in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before. The Secretary of State issued a letter on 9 January 2024 confirming his intention to grant a certificate.
- 10 The total area of Austhorpe Lane OS identified for permanent acquisition is 131.06sqm.
- 11 Austhorpe Lane OS lies within the scheduled works area for Work No. 2.
- 12 Articles 22 (*Power to acquire land*), Article 25 (*Power to acquire new rights*), Article 38 (*Open Space Land*) and Schedule 10 (*Acquisition of New Rights Only*) of the draft Order are the relevant provisions relating to the acquisition of land in relation Austhorpe Lane OS.
- 13 Article 22 confers the power to permanently acquire plots 7-010 and 7-016B of the Austhorpe Lane OS.
- 14 Article 38(1) confirms that from the date of acquisition, the Austhorpe Lane OS will be discharged from all rights, trusts and incidents associated with its use as open space land.
- 15 Article 38(2) identifies the relevant plots comprising Austhorpe Lane OS acquisition and confirms (subject to such certificate being granted) that the Secretary of State has certified the Austhorpe Lane OS is less than 209 square metres and accordingly the giving of exchange land is not necessary.
- 16 Article 25 confirms the extent of new rights which Network Rail can acquire. As Plots 7-016 and 7-017A sit within Works No.2 (and therefore could be subject to Article 22 in terms of the ability to permanently acquire land) the draft Order expressly restricts the use of compulsory acquisition to new rights. The new rights sought are:

"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 and such right shall be for the benefit of Northern Gas Networks Limited (including its successors)."