

**TRANSPORT AND WORKS ACT 1992  
TRANSPORT AND WORKS (INQUIRIES  
PROCEDURE) RULES 2004**

**THE NETWORK RAIL (LONDON TO CORBY)  
(LAND ACQUISITION, LEVEL CROSSING AND  
BRIDGE WORKS) DRAFT ORDER**

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**PROOF OF EVIDENCE  
-OF-  
MR. PAUL BOATMAN  
BOVIS HOMES LIMITED**

## **1. INTRODUCTION**

- 1.1. My full name is Paul John Boatman. I am the Project Director for the Stanton Cross Development working for Bovis Homes Limited based in Coleshill, Warwickshire. I have spent my whole career (46 years) working in the construction industry. Since I joined Bovis Homes Limited in 2002, I have been employed in numerous Project Management positions on various developments from residential to mixed use developments throughout the eastern half of England.
- 1.2. My roles and responsibilities in my current role on this project are to obtain planning consents for the development, conclude any legal agreement required to enable the construction of the projects and programme and monitor the provision of infrastructure to serve the development.

## **2. SCOPE OF EVIDENCE AND CPO PROCEDURE HISTORY**

- 2.1 In this Proof of Evidence, I explain how the proposals contained within the Order will have a detrimental effect on the Stanton Cross development and in particular, the implications to a major development scheme if the CPO is confirmed
- 2.2 Bovis Homes Limited ("BHL") objects to the applications by Network Rail Infrastructure Limited ("Network Rail"), the acquiring authority pursuant to Rule 4 of the Transport and Works (Inquiries Procedure) Rules 2004.
- 2.3. BHL was served with Notice of The Network Rail (London to Corby) (Land Acquisition, Level Crossing and Bridge Works) Draft Order and related applications in respect of the application by Network Rail for the above draft Order. BHL has the benefit of a freehold interest or other interest in respect of land the subject of the Draft Order as included in Schedules 1, 2, 3 and 5 thereto and/or as shown on the deposited plans and described in the book of reference.
- 2.4. BHL has objected by way of a letter dated 2<sup>nd</sup> August 2018 to the Draft Order and gave notice of its intention to attend the Inquiry and set out its objections.
- 2.5. This Proof sets out the particulars of BHL's case in relation to its objections to the making of the Order as will be put forward at the Inquiry.

### **3. BACKGROUND AND PLANNING POSITION**

- 3.1. Outline planning permission was conditionally granted by the Borough Council of Wellingborough ("BCW") on 28<sup>th</sup> January 2008 ("the 2008 outline planning permission"), in respect of planning application reference WP/2004/0600 for: -

"Mixed use development including 87ha of residential development; B1, B2 and B8 development, new public transport links (buses), new and enhanced walking and cycling routes and facilities, Country Park, Neighbourhood Centre, 2 Secondary local centres, construction of access roads, bridges and highway structures, footways, footpaths, bridleways; and associated works and facilities"

at Land Between Finedon Road & The Railway, Neilson's Sidings & Land north of Finedon Road (Bovis) Finedon Road Wellingborough Northamptonshire ("the permission land").

- 3.2. A planning obligation was also entered into pursuant to the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") by BCW, Network Rail, BHL and others on 28<sup>th</sup> January 2008 ("the 2008 planning obligation").
- 3.3. Access is a detailed consideration of the Outline Planning Permission and the approved route plan was shown on Plan C of the said planning obligation and Route 2, which is of present relevance was shown
- 3.4. The construction of some 3,200 homes were envisaged by the 2008 outline planning permission.
- 3.5. The permission land forms the main part of a Sustainable Urban Extension and is allocated in the Borough Council of Wellingborough's Local Plan and the permission land is also specifically referred to in the adopted North Northamptonshire Joint Core Spatial Strategy.
- 3.6. On 17<sup>th</sup> September 2014 approval was given by WBC in respect of application for approval of reserved matters, reference WP/14/00475/REM, made under and pursuant to the 2008 outline planning permission for: -
- "amendment of part of approved route 2 for the scheme and landscaping to that part".
- 3.7. Condition 2 thereof refers to drawings 47069875/3036:001 - Realignment of Irthlingborough Road and 006 Route 2 Realignment - Sheet 1 of 2 in order to define

the consent. This shows an approved realignment of the northern section of Route 2 to the west of the route shown on Plan D of the 2008 planning obligation.

- 3.8. On 6<sup>th</sup> February 2017, conditional planning permission was granted by WBC pursuant to s.73 of the Town and Country Planning Act 1990 (as amended) for: -

“Mixed use development including 87ha of residential development; B1, B2 and B8 development, new public transport links (buses), new and enhanced walking and cycling routes and facilities, Country Park, Neighbourhood Centre, 2 Secondary local centres, construction of access roads, bridges and highway structures, footways, footpaths, bridleways; and associated works and facilities”

on the permission land.

- 3.9. A planning obligation was also entered into pursuant to S.106 of the 1990 Act by the BCW, Network Rail and BHL (and others) on 6<sup>th</sup> February 2017 (“the 2017 planning obligation”).

- 3.10. Condition 7 prevents development from taking place unless in accordance with the 2015 Masterplan (drawing ref DE026\_001 G). The 2015 Masterplan incorporates the amendment to Route 2 approved in 2014 (above).

- 3.11 Condition 9 prevents the development exceeding 3,650 dwellings.

- 3.12. Condition 14 also requires the construction of Route 2 (referred to as Access Road 2) prior to the occupation of the 724<sup>th</sup> residential property. The residential development is being undertaken by BHL with the sale of some development parcels to other residential developers.

- 3.13. Phase 1 of Route 2 (as shown on approved drawing 47069875/3036:001) would provide a new road bridge over the Midland Mainline railway east of the existing road bridge, with the new road linking into the existing Irthlingborough Road on both sides of the railway.

- 3.14 Phase 2 of Route 2 (as shown on approved drawing 47069875/3036:006) would continue the new road south of the railway in a south-westward direction, maintaining the link to the existing Irthlingborough Road but now without a direct link to it from the new road.
- 3.15 Currently, BHL has negotiated and concluded a Bridge Option Agreement with Network Rail and this includes negotiated and agreed rights for the Network Rail land and air rights to cross the railway at this location.

#### **4. THE PURPOSE OF THE ORDER**

- 4.1. Network Rail is seeking to acquire compulsorily land and rights in land and to use land temporarily in connection with the consented development (including rights to oversail land with a crane) included in the Draft Order ("the Order Land") more particularly identified as land south of the public highway known as Irthlingborough Road and north of the Midland Main Line, Wellingborough in connection with the alteration and improvement of the Midland Mainline railway between London and Corby in the County of Northamptonshire to include the District of Wellingborough.
- 4.2 The interests and rights comprising the Order Land are identified in the schedules to the Draft Order, which refer to the maps accompanying the Draft Order.

#### **5. OBJECTIONS TO THE USE OF COMPULSORY PURCHASE POWERS**

##### **5.1. Parcels 605, 629, 630 and 631**

Of particular relevance to BHL's objection, the proposed Draft Order seeks, among other things, compulsorily to acquire BHL's land and/or interests in land in connection with the alterations and improvement of the Midland Mainline railway. In particular, the removal and replacement of the existing road bridge (referred to as "bridge 83" in Column 2 of Schedule 1 to the Draft Order) across the Midland Mainline railway on Irthlingborough Road, Wellingborough.

The above stated parcels enjoy the benefit respectively of the planning permissions and approval referred to above.

BHL owns parcels 605, 630 and 631.

The compulsory acquisition of Parcels 605, 629, 630 and 631 would preclude the physical delivery of Route 2 / Realignment of Irthlingborough Road, both as shown on drawing 47069875/3036:001 (Phase 1) and as shown on drawing 47069875/3036:006 (Phase 2).

(Parcels 602, 603, 604, 632 and 633 (temporary use) are also required to construct Route 2 / Realignment of Irthlingborough Road.)

The compulsory acquisition of these Parcels would prevent the achievement of more than 724 dwellings on the permission land. Further, no suitable alternative access to Route 2 has been identified. Moreover, securing an alternative access (if any) over land not within the ownership of BHL would be likely to render the implementation of the permitted development unviable.

The consequence of not being able fully (or at all) to build out the permission land as permitted would be contrary to the achievement of sustainable development and be contrary to the statutory development plan and the Revised National Planning Policy Framework (July 2018). Moreover, the BCW would, for example, be more likely to be unable to demonstrate a 5 year supply of deliverable housing or to meet the Housing Delivery Test (Revised NPPF paragraph 11 d. and footnote 7 refers), with the consequence that a "tilted balance" in favour of unplanned, ad hoc, planning proposals would apply, in accordance with government policy (ibid), to the detriment of plan-led planning.

Network Rail made no objection to the planning applications referred to above and are a joint applicant and party to the planning obligation agreements.

Phase 1 of Route 2 has been planned by BHL to permit a new bridge to be constructed over the Midland Mainline railway both for proper access to the permission land and the proposed development thereon and so as to avoid any need for Network Rail to reconstruct the existing bridge 83.

The Draft Order wrongly and prematurely seeks powers of compulsory acquisition when discussions and design work are ongoing with Network Rail and BHL having expressed their preparedness to commit to contributing to the cost of the new bridge.

Moreover, there may be the possibility of the inability of vehicular traffic to access the Leyland industrial estate to the north-west of the existing bridge via the existing bridge and Phase 1 of Route 2, pending the construction of Phase 2 of Route 2,

causing detriment and inconvenience to the businesses occupying the Leyland industrial estate.

A compelling case in the public interest for the compulsory acquisition of Parcel 605 has, for all the reasons set out above, clearly not been made out.

## **5.2 Parcels 621 and 624**

These Parcels, as with Parcel 605, have the benefit respectively of the planning permissions and approval referred to above; yet are proposed to be compulsorily acquired. Parcel 621 is currently the subject of an agricultural cropping licence.

By reason of the lack of a compelling case in the public interest for the compulsory acquisition of Parcel 605, a compelling case for the compulsory acquisition of Parcels 621 and 624 on the north side of the existing railway bridge has not been made out either. Loss of these parcels will reduce the development potential for the land and the overall development capacity.

## **5.3 Parcels 602, 603 (and related Parcels 601 and 602), 604, 632, 633**

These parcels, along with Parcels 605, 629, 630 and 631 are all required (save for 601 and 602) by BHL to construct Route 2 / Irthlingborough Road realignment.

Whilst there would generally be no objection to the temporary use of Parcel 603 (or the temporary use of Parcels 601 and 602 land for access thereto along the private access track off Irthlingborough Road, as also sought by Schedule 2 to the Draft Order), or to the temporary use of adjacent Parcels 604, 632 and 633:

- (i) Parcels 603, 604, 632, 633 form part of the land needed for the delivery of Route 2 / Irthlingborough Road realignment (both Phases 1 and 2). There is no indication as to for how long the temporary period would subsist, with potential adverse consequences for the delivery of the permission land development (as referred to above). Thus, a compelling case in the public interest for acquisition of these Parcels for temporary use has not been made out;
- (ii) from 7<sup>th</sup> January 2019 until 30<sup>th</sup> June 2019 Anglian Water have the benefit of a written licence, to be entered shortly by BHL to use the land (Parcel 603),

with access thereto (via Parcels 601, 602, and Parcel 604) for the purposes of “a site compound for the storage of materials, plant and equipment in connection with Anglian Water’s business related to diversion of sewers to facilitate Network Rail’s electrification scheme, the overnight parking of heavy goods vehicles and the use of temporary portacabins for project offices and welfare facilities”.

#### **5.4 Parcels 618, 619, 621 and 622**

These Parcels are all within the permission land (along with Parcels 620, 623 and 628 – see below). Their proposed temporary use is not time-limited so the potential impact, if any, is unknown and the proposed acquisition for such use has not been shown to be justified.

#### **5.5. Parcels 620, 623 and 628**

These parcels are part of the permission land and are currently licensed for agricultural crops. The Draft Order proposes (Article 22 of the Draft Order) entry on and temporary use of airspace above the surface of the land for the oversailing of cranes. No timescale for the temporary use of these Parcels is provided; so, an effect on the development of the permission land cannot be ruled out and their proposed acquisition for such use has not been shown to be justified.

#### **5.6 Parcels 502 and 503 (near Irchester Viaduct)**

Air rights are proposed to be acquired. Schedule 1 (authorised works) refers; as does Schedule 3 (new rights to be acquired), in both cases in respect of attaching apparatus to existing railway infrastructure.

These Parcels bisect two areas of land in BHL’s ownership and form part of the approved strategic open space for the proposed development and is designated as a SSSI/SPA for wintering birds. Access is required by BHL under the viaduct and adjoining land at all times for both a public right of way and for maintenance of the land. Such access has not been safeguarded. The acquisition has not been shown to be justified.



## 5.7 Parcel 606

For completeness, I have been unable to locate Parcel 606 on any of the plans and therefore, maintain a holding objection until its location is clarified.

## 6. LIST OF DOCUMENTS, MAPS OR PLANS IN SUPPORT OF THIS PROOF

- (i) BHL hand annotated Draft Plans and Sections regarding The Network Rail (London to Corby) (Land Acquisition, Level Crossing and Bridge Works) Order
- (ii) **Title Number NN85772** - BHL Land Registry Official Copies and Title Plan for land on the south side of Irthlingborough Road, Wellingborough
- (iii) Drawing Number 47069875/3036/001 dated March 14 and entitled "Stanton Cross, Wellingborough – Realignment of Irthlingborough Road"
- (iv) Drawing Number 47069875/3036/006 dated March 14 and entitled "Stanton Cross, Wellingborough – Route 2 Realignment Sheet 1 of 2"
- (v) **WP/14/00475/REM** - Approval of Reserved Matters Issued by the BCW as of 17<sup>th</sup> September 2014 for Land Between Finedon Road and The Railway, Nielson's Sidings and Land North of Finedon Road (Bovis), Finedon Road, Wellingborough, Northamptonshire
- (vi) **WP/15/00605/VAR** - Variation of Planning Permission Approval Issued by the BCW as of 6<sup>th</sup> February 2017 for Land Between Finedon Road and The Railway, Nielson's Sidings and Land North of Finedon Road (Bovis), Finedon Road, Wellingborough, Northamptonshire
- (vii) **28<sup>th</sup> January 2008** - Completed S.106 Agreement between BCW, Northampton CC, BHL and others.
- (viii) **July 2015** - Planning Statement Prepared by Define on Behalf of BHL and submitted to BCW


- (ix) **22<sup>nd</sup> December 2015** - Officer's Report to BCW Additional Planning Committee
- (x) **6<sup>th</sup> February 2017** - Completed S.106 Agreement between BCW, Northampton CC, BHL and others.
- (xi) **2<sup>nd</sup> August 2018** – Letter of Objection on Behalf of BHL submitted to the Secretary of State for Transport.

#### 14. WITNESS DECLARATION

I hereby declare as follows:

- (i) This proof of evidence includes all facts which I regard as being relevant to the opinions that I have expressed and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion.
- (ii) I believe the facts that I have stated in this proof of evidence are true and that the opinions expressed are correct.
- (iii) I understand my duty to the Inquiry to help it with matters within my expertise and I have complied with that duty.

Signed:

  
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Paul Boatman – Project Director

Bovis Homes Limited – January 2019