

The Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

Date: 31 March 2021
Your ref:
Our ref: CLARKJX\292050/000113
Direct:
Email: julietclark@eversheds-sutherland.com

Dear Sir

**Transport and Works Act 1992 ("the 1992 Act")
The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the Rules")
The Acquisition of Land Act 1981 ("the 1981 Act")
The proposed Network Rail (Huddersfield to Westtown (Dewsbury) (Improvements) Order ("the Order")
Public Open Space in the Borough of Kirklees in West Yorkshire**

1. INTRODUCTION

- 1.1 We act for Network Rail Infrastructure Limited ("NR") in connection with NR's application to the Secretary of State for Transport pursuant to section 6 of the 1992 Act for an Order under sections 1 and 5 of the 1992 Act to authorise the construction, maintenance and operation of works on the Transpennine line between Huddersfield and Westtown (Dewsbury) for the purposes of increasing capacity and improving journey time and performance reliability of railway services on the Transpennine line both between Huddersfield and Westtown (Dewsbury) and between Manchester, Leeds and York. The Order would authorise works to construct a new railway, including the upgrade and reconstruction of the existing railway, railway electrification works and associated works between Huddersfield and Westtown (Dewsbury). The Order also authorises the construction of station improvement works at Huddersfield and works for the construction or reconstruction of stations at Deighton, Mirfield and Ravensthorpe ("the Scheme"). The Order authorises Network Rail to acquire land, the subsoil of land, interests in land, including the imposition of restrictive covenants and to temporarily acquire and temporarily use land for the purposes of the works authorised by the Order. The Order would also confer powers in connection with the construction and operation of the railway.
- 1.2 NR has identified that certain land proposed to be so acquired, being land in the Borough of Kirklees in West Yorkshire, appears to form open space or other land within the meaning of section 19(1) and (4) of the 1981 Act. The purpose of writing to you is to request certificates from the Secretary of State under section 19 of, or paragraph 6 of Schedule 3 to, the 1981 Act in relation to that land.
- 1.3 The Order will also authorise NR to take certain further open space land temporarily. The land parcels in question are included only in Schedule 16 to the Order as land of which only temporary possession may be taken. This letter does not refer to that land since the provisions of the 1981 Act do not apply.

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2. THE ORDER

2.1 The application for the Order was made to the Secretary of State for Transport on 31st March 2021 in accordance with the Rules and was accompanied by a draft of the Order as well as a number of documents required to accompany the application under the Rules.

2.2 In order to assist the Secretary of State's consideration of NR's request we are enclosing with the copy of this letter sent by post copies of certain of those documents as follows:

- The proposed Network Rail (Huddersfield to Westtown (Dewsbury) (Improvements) Order;
- A3 set of deposited plans and sections and open space plan;
- Environmental Statement ("ES"): Chapter 20: Public Open Space;
- non-technical summary of the Environmental Statement;
- The Book of Reference.

We should mention that copies of all of the documents accompanying the application as well as further information about the project can be viewed and downloaded from NR's website at <https://www.networkrail.co.uk/TranspennineEngagement>.

2.3 Article 26 of the Order confers power of compulsory acquisition over land required for the purposes of the construction, maintenance and use of the works to be authorised by the Order. Article 26(1)(b) of the Order provides for the compulsory acquisition of so much of the land specified in columns (1) and (2) of Schedule 2 (acquisition of certain lands for ancillary works)(being land shown on the deposited plans and described in the book of reference) as may be required for the purpose specified in column (3) of that Schedule.

3. THE TRANSPORT AND WORKS ACT 1992

3.1 Section 12 of the 1992 Act provides:

"An order under section 1 or 3 above authorising a compulsory purchase shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 (or by virtue of paragraph 5 or 6 of Schedule 3 to that Act) (National Trust land, commons etc), if the purchase were authorised by an Order under section 2(1) of that Act."

3.2 Accordingly, since the Order seeks to acquire compulsorily land which would otherwise be subject to special parliamentary procedure NR are seeking certificates under section 19 of, or paragraph 6 of Schedule 3 to, the 1981 Act.

4. THE ACQUISITION OF LAND ACT 1981

For the purposes of the Order, by its application under section 12 of the 1992 Act, the relevant provisions of the 1981 Act are as follows:

4.1 *Section 19(1)(a)*

4.1.1 Paragraph 19(1)(a) of section 19 provides that where the Secretary of State is satisfied:

"that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the person in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ..."

he may certify accordingly.

- 4.1.2 Paragraph 20.5.86 of the ES explains Network Rail's approach to the provision of replacement land where public open space is subject to compulsory acquisition further to the Scheme proposals. Constraints in the availability of land as replacement public open space in Deighton, and the relative advantage in providing accessible consolidated large areas of open space land in exchange for more fragmented areas compulsory acquired, informed the decision to propose two consolidated areas of replacement open space at Ravensthorpe. The "Ravensthorpe Triangle" exchange land is an area of 15,266 square metres located between the railway line to Dewsbury to the north and the railway to Wakefield to the south, bounded by the Calder & Hebble Navigation Canal. The "Ravensthorpe" exchange land is located to the south of the proposed relocated Ravensthorpe Railway Station, being a further 11,274 square metres in area. Both areas are proximate to and connected into the local Public Rights of Way network ("PRoW"); providing optimal replacement land for public amenity. The advantages of this approach are noted in the ES which states:

"Due to the increased area of the Exchange Land, together with its connectivity and consolidated nature, the provision of replacement public open space by the Scheme is advantageous as compared to the existing baseline" .. and

"the Scheme will result in the permanent acquisition of circa 26,261 square metres of public open space. As mitigation, 26,540 square metres of public open space will be provided as exchange land so there will be no loss of area of public open space as a result of the Scheme".

- 4.1.3 Open space affected by the Scheme proposals, for which a certificate is sought under section 19(1)(a), are described at paragraphs 5.1 to 5.5 of this letter.

4.2 *Section 19(1)(b)*

- 4.2.1 Subsection (1)(b) of section 19 provides that where the Secretary of State is satisfied:

"that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,"

he may certify accordingly.

- 4.2.2 Open space affected by the Scheme proposals, for which a certificate is sought under section 19(1)(b), is described at paragraphs 5.1.6 to 5.1.9 of this letter.

5. THE OPEN SPACE AFFECTED

NR has identified the following land required in order to construct, maintain and use certain works to be authorised by the Order and which is therefore subject to the powers of compulsory acquisition conferred by the Order being land which appears to form open space for the purposes of section 19(1) of the 1981 Act.

5.1 **Land to the north-west of the existing railway between Fieldhouse Overbridge and Deighton Station, Borough of Kirklees comprising in part the Birkby Bradley Greenway – land parcel numbers 7-039, 8-003, 8-011, 8-013, 8-026, 8-028, 8-030, 9-002 and 9-003 (“Open Space at Birkby Bradley Greenway”)**

5.1.1 The Open Space at Birkby Bradley Greenway proposed to be permanently acquired comprises an area of 11,760 square metres and is shown on sheets 7, 8 and 9 of the Deposited Plans and Sections (“the Plans”). It is also included in the Book of Reference at pages 147, 150, 151, 152, 154 and 155 (shown in the copy of the Book of Reference enclosed, listed in numerical order).

5.1.2 The Open Space at Birkby Bradley Greenway is within the Order limits of deviation and subject to the power of compulsory acquisition conferred by article 26(1)(a) of the Order. The land is required for the purposes of the construction, maintenance and use of Works Nos 2, 4 and 5. The main works, authorised by article 8 of the Order, are set out in Schedule 1 to the Order. The land is to be acquired for the reconstructed Deighton Railway Station, including earthworks to support both the station and the railway.

5.1.3 Cycle Network (NCN) Route 69 runs adjacent to and through the Open Space at Birkby Bradley, and the land either side of the cycle path is incidental public right of way, and is used by a cross section of the public as described in paragraph 20.5.104 of the ES. The impact on the wider area surrounding the Open Space at Birkby Bradley Greenway during the construction phase is considered at paragraph 20.5.37 to 20.5.45 of the Environmental Statement, which notes:

“where possible NGN69 will be temporarily diverted (within the Scheme boundary) during the works to allow access at times during the construction phase when the conflict between construction traffic and users of the right of way can be safely managed.”

5.1.4 Following the construction phase, NCN Route 69 will be reinstated along a minor diverted route, and access through the site will be maintained with perimeter fencing installed on the boundary of the increased railway embankment. The ES addresses the operational impacts on this land at 20.5.103 to 20.5.112 and Table 20-10, and notes:

“access through the site will be maintained in the long term, ensuring the recreational amenity value of the greenway and its value as PoS is maintained”

5.1.5 The Open Space Land at Birkby Bradley is shown coloured green on the Open Space Plan attached to the Plans as sheets 55 and 56. The Open Space Plan is referred to in article 44 (Open space and exchange land) of the Order which provides that Open Space Land shall not vest in Network Rail until it has acquired the Exchange Land and Kirklees District Council has certified that the exchange land is laid out to its reasonable satisfaction as open space, no later than one year following the date that the works authorised by the Order come into public use. As is required by s19(1)(a) of the 1981 Act, article 44(4) of the Order provides that the

Exchange Land will vest in Kirklees District Council subject to ***"the like rights, trusts and incidents as attached to so much of the special category land of which possession has been taken .."***.

- 5.1.6 The Exchange Land is defined in article 44(5) of the Order. The Exchange Land identified as appropriate replacement land for The Open Space at Birkby Bradley is the land numbered 19-025, 19-026 and 19-030 on the Plans and shown coloured blue on the Open Space Plan. The area of the Exchange Land shown on the Open Space Plan is 11,274 square metres at Ravensthorpe. The difference in area between the Open Space at Birkby Bradley and the Exchange Land provided at Ravensthorpe is accounted for in the consolidated Exchange Land provided at the Ravensthorpe Triangle, explained at paragraph 4.1.2 above and 20.5.86 of the ES. The Exchange Land is included in Schedule 2 (acquisition of certain lands for ancillary purposes) to the Order and is shown to be subject to compulsory acquisition for the purpose of Exchange Land.

Relevant Provisions of the 1981 Act

- 5.1.7 By its application under section 12 of the 1992 Act, section 19 of the 1981 Act requires that the Order shall be subject to special parliamentary procedure since the Order authorises the acquisition of the Open Space Land at Birkby Bradley Greenway unless the Secretary of State is satisfied as mentioned in paragraph (1) of that section and certifies accordingly.
- 5.1.8 Paragraph (1)(a) of section 19 provides that where the Secretary of State is satisfied:

"that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the person in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ..."

he may certify accordingly.

Certificate Sought

- 5.1.9 For the reasons set out above, NR submits that in relation to the acquisition of the Open Space Land at Birkby Bradley Greenway, the Secretary of State may satisfy himself that there will be given in exchange for that land such land as is mentioned in section 19(1)(a) of the 1981 Act and requests that the Secretary of State certifies accordingly.

5.2 Land to the north-east of the A62 Leeds Road at Glenfield Avenue, Deighton – Land parcel 9-100 ("Open Space Land at Glenfield Avenue")

- 5.2.1 The Open Space at Glenfield Avenue proposed to be permanently acquired comprises an area of 839 square metres and is shown on sheet 9 of the Plans. It is also included in the Book of Reference at page 172 (shown in the copy of the Book of Reference enclosed, listed in numerical order).
- 5.2.2 The Open Space at Glenfield Avenue is within the limits of deviation. It is subject to the power of compulsory acquisition conferred by article 26(1)(a). The land is required in connection with the construction of Work No. 7, comprising the realignment of the A62 Leeds Road and associated earthworks and retaining walls.

- 5.2.3 The Open Space at Glenfield Avenue comprises woodland, which can be accessed by the public from the adjacent footpath HUD/51/10. The primary use of the area is dog walking and access to businesses on the A62. The impact of the Scheme on the Open Space Land at Glenfield Avenue during the construction of the Scheme is considered at paragraphs 20.5.46 to 20.5.52 of the ES. The operational impact on the land is described at 20.5.113 to 20.5.117 and Table 20-11 of the ES, where it is described as **"grassed area, footway, copse and PRow HUD/51/10"**. Following the construction phase, the wider area will be returned to open space and the footpath reinstated along a diverted route.
- 5.2.4 The Open Space at Glenfield Drive is also shown coloured green on the Open Space Plan attached to the Plans as sheet 55. Again, article 44 of the Order applies, and the Open Space will not vest in Network Rail until the Exchange Land has been provided as described in paragraph 5.1.5 above.
- 5.2.5 The Exchange Land is identified within the consolidated area of land parcels 19-025, 19-026 and 19-030, being 11,274 square metres of replacement open space at Ravensthorpe, and is shown coloured blue on the Open Space Plans. The area of Exchange Land represents a greater aggregate area of space for public recreation, advantageous to those using it. The Exchange Land is included in Schedule 2 to the Order and is shown to be subject to compulsory acquisition for the purposes of Exchange Land.

Relevant Provisions of the 1981 Act

- 5.2.6 By its application under section 12 of the 1992 Act, section 19 of the 1981 Act requires that the Order shall be subject to special parliamentary procedure since the Order authorises the acquisition of the Open Space Land at Glenfield Avenue unless the Secretary of State is satisfied as mentioned in paragraph (1) of that section and certifies accordingly.
- 5.2.7 Paragraph (1)(a) of section 19 provides that where the Secretary of State is satisfied:

"that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the person in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ..."

he may certify accordingly.

Certificate Sought

- 5.2.8 For the reasons set out above, NR submits that in relation to the acquisition of the Open Space Land at Glenfield Avenue, the Secretary of State may satisfy himself that there will be given in exchange for that land such land as is mentioned in section 19(1)(a) of the 1981 Act and requests that the Secretary of State certifies accordingly.

5.3 Land at Lady Wood, Mirfield – Land parcels 19-013, 19-017, 19-018 ("Open Space Land at Lady Wood")

- 5.3.1 The Open Space at Lady Wood proposed to be permanently acquired comprises an area of 728 square metres and is shown on sheet 19 of the

Plans. It is also included in the Book of Reference at pages 314 and 315 (shown in the copy of the Book of Reference enclosed, listed in numerical order). It is required in connection with the construction of Work Nos. 15, specifically for the construction of the railway, the Calder Road Bridge realignment and construction of the New Ravensthorpe Station. The land is within the Order limits of deviation and subject to compulsory acquisition pursuant to article 26(1)(a).

- 5.3.2 The Open Space at Lady Wood comprises grassed area, copse and PRow HUD/51/10. The impact of the Scheme during the construction period on the Open Space at Lady Wood is considered at paragraphs 20.5.53 to 20.6.62 of the ES. The operational impacts are described at paragraphs 20.5.118 to 20.5.124 and Table 20-12 of the ES, which notes that the area is **"a wooded area which is heavily overgrown, therefore offering limited opportunities to use the area"**. The ES also notes that **"the PRow through this area will be retained and so access through the site will be maintained during the operational phase"**.
- 5.3.3 Again, the Open Space Land at Lady Wood is shown coloured green on the Open Space Plans attached to the Plans at sheet 56, and article 44 of the Order applies as described in paragraph 5.1.5. The Exchange Land is identified as land parcels 23-035a, 23-065 and 24-004, and is shown coloured blue on the Open Space Plans. The area of Exchange Land shown on the Open Space Plans is 15,266 square metres, and is within the wider consolidated exchange land provided at the Ravensthorpe Triangle. For the reasons explained in paragraph 4.1.2, the provision of large consolidated areas of replacement open space connected to the PRow network is considered advantageous in terms of public amenity.
- 5.3.4 The Exchange land is included in Schedule 2 to the Order and is shown to be subject to compulsory acquisition for the purposes of Exchange Land.

Relevant Provisions of the 1981 Act

- 5.3.5 By its application under section 12 of the 1992 Act, section 19 of the 1981 Act requires that the Order shall be subject to special parliamentary procedure since the Order authorises the acquisition of the Open Space Land at Lady Wood unless the Secretary of State is satisfied as mentioned in paragraph (1) of that section and certifies accordingly.
- 5.3.6 Paragraph (1)(a) of section 19 provides that where the Secretary of State is satisfied:

"that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the person in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ..."

he may certify accordingly.

Certificate Sought

- 5.3.7 For the reasons set out above, NR submits that in relation to the acquisition of the Open Space Land at Lady Wood, the Secretary of State may satisfy himself that there will be given in exchange for that land such land as is mentioned in section 19(1)(a) of the 1981 Act and requests that the Secretary of State certifies accordingly.

5.4 **Land to the south west of Ravensthorpe Road, Ravensthorpe – Land parcel numbers 19-020, 19,027, 21-006, 21-026 (Open Space Land at Ravensthorpe”)**

- 5.4.1 The Open Space Land at Ravensthorpe proposed to be permanently acquired comprises an area of 12,793 square metres and is shown on sheets 19 and 21 of the Plans. It is also included in the Book of Reference at pages 315, 316, 325 and 331 (shown in the copy of the Book of Reference enclosed, listed in numerical order).
- 5.4.2 The Open Space Land at Ravensthorpe is required in connection with Work No. 15 and Work No. 17, specifically to facilitate works to the new Ravensthorpe Station including access points and also the realignment of Calder Road and Ravensthorpe Road. The land is within the Order limits of deviation and article 26(1)(a) applies.
- 5.4.3 The Open Space at Ravensthorpe is formed of woodland and PRoW DEW/3/10. The impact of the construction of the Scheme is set out at paragraphs 20.5.64 to 20.5.70 of the ES. The operational impact of the Scheme on the Open Space at Ravensthorpe is addressed at paragraphs 20.5.125 to 20.5.131 and Table 20-13 of the ES which notes that **“the area is a wooded area which is heavily overgrown and therefore offers limited opportunities to users”**. Bridleway DEW/3/10 runs through the area, which primary use is access to the wider PRoW network. The construction works will require the temporary closure of the Bridleway. Following the construction phase, the Bridleway will be reinstated along a diverted route.
- 5.4.4 The Open Space at Ravensthorpe is shown coloured green on the Open Space Plans attached to the Plans at sheet 56. The Exchange Land is identified as land parcel numbers 24-005, 23-035a, 23-065 and 24-004, and is shown coloured blue on the Open Space Plans. It is subject to article 44 as explained at paragraph 5.1.5. The Exchange Land comprises 15,266 square metres. As referenced at 4.1.2 above and paragraph 20.5.86 of the ES, this Exchange Land represents consolidated replacement open space within the Ravensthorpe Triangle and considered in aggregate with the replacement open space provided at Ravensthorpe provides an increased area for public amenity which is connected into the local public rights of way network.

Relevant Provisions of the 1981 Act

- 5.4.5 By its application under section 12 of the 1992 Act, section 19 of the 1981 Act requires that the Order shall be subject to special parliamentary procedure since the Order authorises the acquisition of the Open Space Land at Lady Wood unless the Secretary of State is satisfied as mentioned in paragraph (1) of that section and certifies accordingly.
- 5.4.6 Paragraph (1)(a) of section 19 provides that where the Secretary of State is satisfied:

“that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the person in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ...”

he may certify accordingly.

Certificate Sought

5.4.7 For the reasons set out above, NR submits that in relation to the acquisition of the Open Space Land at Lady Wood, the Secretary of State may satisfy himself that there will be given in exchange for that land such land as is mentioned in section 19(1)(a) of the 1981 Act and requests that the Secretary of State certifies accordingly.

5.5 Land to the West of Fall Lane, Dewsbury – Land parcel numbers 25-012, 25-017 and 25-021 (“Open Space Land at Fall Lane”)

5.5.1 The Open Space Land at Fall Lane proposed to be permanently acquired comprises an area of 600 square metres and is shown on sheet 25 of the Plans. It is also included in the Book of Reference (shown in the copy of the Book of Reference enclosed, listed in numerical order) at pages 404, 405 and 406.

5.5.2 The Open Space Land at Fall Lane is within the Order limits of deviation and subject to compulsory acquisition under article 26(1)(a) in connection with Work No.19; specifically the realignment of Fall Lane and Thornhill Land for the realignment of the railway and reconstruction of Thornhill Road Bridge. It comprises grassland, although part of the site is used for vehicle parking for residents at Brooks Yard. There is no evidence of rights of way over the land and the primary use is roadside verges with minimal public amenity. It is used by the public to access Fearnley Street and Brookes Yard.

5.5.3 The ES assesses the construction impact of the Scheme on the Open Space at Fall Lane in paragraphs 20.5.76 to 20.5.81. The operational impact is described at 20.5.133 to 20.5.137 and Table 20-14, where it states that **“with the reinstatement of the majority of the area to PoS and with the implementation of the exchange land.....it is expected to experience neutral effects the during operation phase which is not significant.** Following the construction phase, the land will be reinstated to open space land.

5.5.4 Replacement open space provided for in the Order, in exchange for the compulsory acquisition of the Open Space at Fall Lane, and subject to article 44 of the Order is identified within the wider consolidated area of Open Space at Ravensthorpe, being land parcel numbers 24-005, 23-035a and 23-065. The replacement open space exceeds that which is required by the Scheme, and as a consolidated, easily accessible area is more advantageous to those using it. As stated in the ES, **“the exchange land will provide a high quality PoS area that has a greater degree of accessibility to the public and is not constrained by gradients or vegetation...[it] will form part of the overall landscaping scheme, with the aim to maximise public amenity and enjoyment through the creation of informal footpaths, seating areas and landscaping.**

Relevant provisions of the 1981 Act

5.5.5 By its application under section 12 of the 1992 Act, section 19 of the 1981 Act requires that the Order shall be subject to special parliamentary procedure since the Order authorises the acquisition of the Open Space Land at Lady Wood unless the Secretary of State is satisfied as mentioned in paragraph (1) of that section and certifies accordingly.

- 5.5.6 Paragraph (1)(a) of section 19 provides that where the Secretary of State is satisfied:

"that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the person in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ..."

he may certify accordingly.

Certificate Sought

- 5.5.7 For the reasons set out above, NR submits that in relation to the acquisition of the Open Space Land at Fall Lane, the Secretary of State may satisfy himself that there will be given in exchange for that land such land as is mentioned in section 19(1)(a) of the 1981 Act and requests that the Secretary of State certifies accordingly.

5.6 Land to the west of Bow Street, Huddersfield – Land parcel number 2-044 ("Land at Bow Street")

- 5.6.1 The Land at Bow Street proposed to be permanently acquired comprises an area of 43 square metres and is shown on sheet 2 of the Plans. It is also included in the Book of Reference (shown in the copy of the Book of Reference enclosed, listed in numerical order) at page 13. The Land at Bow Lane is within the Order limits of land to be acquired or used, in Schedule 2 to the Order. It is required for the provision of railway lighting and track drainage at Springwood Junction.
- 5.6.2 The Land at Bow Street comprises a small wooded area used by the public to access the footpath network. The impact of the Scheme on the Land at Bow Street is set out at paragraphs 20.5.89 to 20.5.93 and Table 20-8 of the ES, which notes that the area ***"has limited amenity given the existing vegetation and extent of the footpath area which limits further use of the land"***.

Relevant provisions of the 1981 Act

- 5.6.3 Section 19 of the 1981 Act (as applied by section 12 of the 1992 Act) would require that the Order be subject to special parliamentary procedure unless the Secretary of State is satisfied as mentioned in subsection (1) of that section and certifies accordingly.
- 5.6.4 Subsection (1)(b) of section 19 provides that where the Secretary of State is satisfied:

"that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,"

he may certify accordingly.

Certificate sought

- 5.6.5 Since the Open Space Land at Bow Land comprises an area less than 209 square metres (the metric equivalent of 250 square yards) in extent and is a small wooded area bordered by the railway, within a wider and more accessible area of open space, NR submits that the giving in exchange of other land is unnecessary in the interests of the public and requests that the Secretary of State certifies accordingly.

5.7 **Land to the north west of Old Fieldhouse Lane, Huddersfield – Land parcel 7-042 (“the Land at Old Fieldhouse Lane”)**

- 5.7.1 The Land at Old Fieldhouse Lane proposed to be permanently acquired comprises an area of 72 square meters, and is shown on sheet 7 of the Plans. It is also included in the Book of Reference at page 148 (shown in the copy of the Book of Reference enclosed, listed in numerical order). The Land at Old Fieldhouse Lane is within the limits of deviation of the Order, and subject to article 26. It is required in connection with Work No. 2, specifically in connection with the replacement of Fieldhouse Overbridge and the provision of step free access.
- 5.7.2 The Land at Old Fieldhouse Lane comprises land off the PRoW HUD/42/10. The PRoW is utilised by a variety of people but the Land at Old Fieldhouse Lane is difficult to access and is situated within a larger area of open space. The impact of the Scheme is assessed at paragraphs 20.5.96 to 20.5.101 and Table 20-9 of the ES where it is noted that ***“given the small area of land take and the low recreational value of the site, neutral effects are expected... which are not significant”***

Relevant provisions of the 1981 Act

- 5.7.3 Section 19 of the 1981 Act (as applied by section 12 of the 1992 Act) would require that the Order be subject to special parliamentary procedure unless the Secretary of State is satisfied as mentioned in subsection (1) of that section and certifies accordingly.
- 5.7.4 Subsection (1)(b) of section 19 provides that where the Secretary of State is satisfied:

“that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,”

he may certify accordingly.

Certificate sought

- 5.7.5 Since the Open Space Land at Old Fieldhouse Lane comprises an area less than 209 square metres (the metric equivalent of 250 square yards) in extent and the relative inaccessibility of the land, NR submits that the giving in exchange of other land is unnecessary in the interests of the public and requests that the Secretary of State certifies accordingly.

5.8 **Land to the north of Huddersfield Broad Canal, Deighton - Land parcel 8-005 (“Land at Huddersfield Broad Canal”)**

- 5.8.1 The Land at Huddersfield Broad Canal proposed to be permanently acquired comprises an area of 26 square metres and is shown on sheet 8

of the Plans. It is also included in the Book of Reference at page 150 (shown in the copy of the Book of Reference enclosed, listed in numerical order). The Land at Huddersfield Broad Canal is within the Order limits of deviation and is subject to article 26. It is required in connection with Work No. 2, specifically in connection with the replacement of Fieldhouse Overbridge and the provision of step free access.

- 5.8.2 The Land at Huddersfield Broad Canal comprises land off the PRoW HUD/42/10. It is difficult to access and forms part of a larger area of public open space. The impact of the Scheme is assessed at paragraphs 20.5.96 to 20.5.101 and Table 20-9 of the ES where it is noted that **"given the small area of land take and the low recreational value of the site, neutral effects are expected... which are not significant"**

Relevant provisions of the 1981 Act

- 5.8.3 Section 19 of the 1981 Act (as applied by section 12 of the 1992 Act) would require that the Order be subject to special parliamentary procedure unless the Secretary of State is satisfied as mentioned in subsection (1) of that section and certifies accordingly.
- 5.8.4 Subsection (1)(b) of section 19 provides that where the Secretary of State is satisfied:

"that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,"

he may certify accordingly.

Certificate sought

- 5.8.5 Since the Open Space Land at Huddersfield Broad Canal comprises an area less than 209 square metres (the metric equivalent of 250 square yards) in extent and given the inaccessibility of the land, NR submits that the giving in exchange of other land is unnecessary in the interests of the public and requests that the Secretary of State certifies accordingly.

6. PROCEDURE UNDER THE 1981 ACT

- 6.1 Section 19(2) of, and paragraph 6(3) of Schedule 3 to, the 1981 Act provide that where it is proposed to give a certificate under those provisions, the Secretary of State shall direct the acquiring authority to give public notice of his intention so to do. Section 19(2A) of, and paragraph 6(3A) of Schedule 3 to, the 1981 Act provide that the notice required to be given shall be given in such form and manner as the Secretary of State may direct.
- 6.2 Should the Secretary of State be minded to grant the certificates which are sought by NR, we should be grateful to receive the Secretary of State's direction under the above-mentioned provisions of the 1981 Act.
- 6.3 The above-mentioned provisions also require that before giving a certificate, the Secretary of State must afford to all persons interested an opportunity to make representation and objections and to cause a public inquiry to be held in any case

where it appears to him to be expedient to do so having regard to any representations or objections made.

7. **PROCEDURE UNDER THE 1992 ACT**

- 7.1 The objection period for the Order will expire on 17th May 2021 and it is probable that it will be necessary for the Secretary of State for Transport to cause an inquiry to be held in relation to the Order application which, in that event, would be likely to be held later this year. You may therefore wish to liaise with Caroline O'Neill at the Transport Infrastructure Planning Unit, Department for Transport, Zone 1/14-18, Great Minster House, 33 Horseferry Road, London SW1P 4DR (telephone: 07971145878). CRCL would wish any objections or representations in relation to its application for certificates under the 1981 Act to be dealt with at the same inquiry.

We should be grateful if you would please acknowledge safe receipt of this letter and its enclosures and let us know whether you require any further information at this stage.

We look forward to hearing from you.

Yours faithfully

Eversheds Sutherland (International) LLP

Eversheds Sutherland (International) LLP

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cc: Transport and Works Act Orders Unit (letter only - by email)