



STATEMENT OF CASE OF THE OBJECTOR HD1 DEVELOPMENTS LTD

Prepared by Sanderson Weatherall LLP

**Network Rail (Huddersfield to West Town
(Dewsbury) Improvements) Order 2021 (the
Order)**

5 July 2021

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Background

HD1 Developments Ltd are the Freeholder of land, buildings and rights scheduled in the Order as follows:

Plot Number	Extent and Description of Land	Description of Interest/Rights
3-116	Hardstanding, Fitzwilliam Street, Huddersfield	Compulsory purchase of lands, right in lands, the extinguishment of rights over land and rights to temporary use land and undertake protective works to roads and apparatus of the statutory undertaker.
3-121	Hardstanding, Fitzwilliam Street, Huddersfield	Compulsory purchase of lands, right in lands, the extinguishment of rights over land and rights to temporary use land and undertake protective works to roads and apparatus of the statutory undertaker.
3-091c	Hardstanding forming St George's Quarter, New North Parade	The compulsory purchase of rights in land, the extinguishment of rights over the land rights and rights to temporary use land and provides for rights to carry out protective works to building, roads and apparatus of the statutory undertaker.
3-111	Buildings and hardstanding Fitzwilliam Street, Huddersfield	The compulsory purchase of rights in land, the extinguishment of rights over the land rights and rights to temporary use land and provides for rights to carry out protective works to building, roads and apparatus of the statutory undertaker.
3-091	Access road and hardstanding, St George's Quarter, New North Parade	The compulsory purchase of rights in land, the extinguishment of rights over land, the imposition of restrictive covenants or other covenants over land and rights to temporarily use land and provide for rights to carry out protective work to buildings, roads and apparatus of a statutory undertaker.
3-091a	Goods life, access road and hardstanding, St George's Quarter, New North Parade	The compulsory purchase of rights in land, the extinguishment of rights over land, the imposition of restrictive covenants or other covenants over land and rights to temporarily use land and provide for rights to carry out protective work to buildings, roads and apparatus of a statutory undertaker.
3-091b	Hardstanding forming St George's Quarter, New North Parade	The compulsory purchase of rights in land, the extinguishment of rights over land, the imposition of restrictive covenants or other covenants over land and rights to temporarily use land and provide for rights to carry out protective work to buildings, roads and apparatus of a statutory undertaker.
3-055	Hardstanding and tank to the east of Brunswick Street	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.

3-070	Hardstanding and commercial building, St George's Quarter, New North Parade	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-074	Buildings and hardstanding, Fitzwilliam Street, Huddersfield	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-091	Access road and hardstanding St George's Quarter, New North Parade	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-091a	Goods lift, access road and hard standing, St George's Quarter, New North Parade	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-091b	Hardstanding forming St George's Quarter, New North Parade	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-091c	Hardstanding, St George's Quarter, New North Parade	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-111	Buildings and hardstanding, Fitzwilliam Street, Huddersfield	The temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker.
3-063	Commercial Building, St George's Quarter, New North Parade	Rights to carry out protective works to buildings, roads and apparatus of a statutory undertaker.

Grounds for Objection

The Order, if made, would give powers for the permanent acquisition of land and rights owned and occupied in part by HD1 Developments Ltd.

In response to Network Rail Infrastructure Ltd ("**Network Rail**") notices of 31 March 2021 in respect of the abovementioned land the following objections are raised to the order.

1. Restrictive Covenant - the plan of the proposed footbridge shows a new platform 9 which will lie close to the site boundary. The station roof will be replaced/extended to cover platform 9 and will be directly adjacent to the wagon lift. As the warehouse situated at the Property ("**Warehouse**") is Grade-II Listed, special attention must be given to the way in which the Warehouse will be impacted by the proposal. Further details are required in respect of this impact, and the "protective works" proposed to ensure that the Warehouse is not materially

affected by the works authorised by the Order. Currently, in our view, the EIA and other documentation submitted provides an inadequate evaluation of the impacts on the Warehouse and provides no clarity as to the “protective works” proposed. Furthermore, the scheme will impose restriction on the opening of windows giving rise to a loss of natural ventilation. It is proposed to convert the wagon lift into office accommodation and use it as a head office for Hd1 Developments. The restriction on natural ventilation impacts on architectural and environmental design options.

2. Boundary changes – Inadequate information is given to provide an understanding of the relationship between the permanent and temporary land take on the boundaries and the imposition of rights over the retained land. The retention by the objector of their land is more important than the purpose for which it is sought and, fundamentally, compulsory purchase powers should only be used where expedient to do so, and compulsory purchase orders should only be made where there is a compelling case in the public interest. Such a case has not yet been demonstrated in respect of the parts of the Property to be compulsorily acquired, and no reasonable steps have been taken by Network Rail to acquire such land by private agreement.
3. The WYCA and Local Authority have ringfenced £10 million to fund the station connection from St Georges Quarter, construction of a park and ride/transport hub, external staircase, and lift. The relationship between Network Rail, WYCA and the local authority is unclear and ill-defined drawing into doubt whether the scheme as proposed represents optimal design and appropriate use of public funds. Consent of the Order should not be granted for a scheme which precludes future comprehensive design of the site, a part of which will achieve a desirable aim of bringing the Warehouse back into a viable use.
4. Permanent access – the route of the permanent right of access is ill-conceived and should be incorporated into the whole scheme design. A dedicated road for Network Rail is unnecessary, and it has not been demonstrated by Network Rail that there is a compelling case in the public interest for such compulsory acquisition. No reasonable steps have been taken by Network Rail to acquire such land by private agreement.
5. Site occupation - The courtyard (New North Parade entrance) should not be included in the scheme. The area is separate from the rear car park and is not accessible from it. Insufficient information has been provided to enable a proper understanding of why the land has been included in the order. Given the inaccessible nature of this courtyard, we are firmly of the view that this land will not be needed for the implementation of the Order. Without prejudice to this and in any event, Network Rail have failed to demonstrate there to be a compelling case in the public interest for this land to be acquired by compulsory acquisition, and no reasonable steps have been taken by Network Rail to acquire such land by private agreement.
6. The scheme as proposed results in the loss of a key access. The loss of access will result in significant restriction on the use to which the building can be put in the future. In so doing the supply of commercial premises in the locality is reduced with potential adverse impact on employment and the local economy.
7. The proposed restriction on access contradicts one of the key objectives of the scheme being that of regeneration of the area and existing structures.
8. Analysis of historic occupation demonstrates that the scheme as proposed will give rise to a loss of amenity to the community and local economy – Over the previous 8 years the car park and building have been leased to various organisations such as the Council, The University, The BBC, ITV, outdoor cinema. There is no advantage in using the objector's land as opposed

to the land of others. Network Rail has failed to demonstrate that reasonable alternatives have been considered.

9. Loss of employment and of a car park used by a significant number of workers – the objector employs staff to maintain the car park and certain parts of the building. These jobs will be lost if the scheme is confirmed in its current form. In addition, the popularity of the car park with commuting workers leads us to conclude that the loss of this important facility for the period during which the Order is implemented (around 5 years) is not in the public interest, and no reasonable alternatives appear to have been considered by Network Rail.
10. The scheme will result in the St Georges Quarter redevelopment being deferred for at least five-year giving rise to significant loss of revenue and holding costs. Network Rail has failed to demonstrate adequate source or timing of funding to deliver the scheme and, in any event, Network Rail is required to demonstrate both that full funding is available for the scheme and also that the scheme can be delivered.
11. Network Rail has failed in its duty to make a reasonable effort to secure the interests required for the scheme by agreement and has not made an offer to the objector for the interests sought. Compulsory acquisition is a measure of last resort, and we invite Network Rail to provide evidence to the contrary.
12. From the limited information provided to date there is no supporting evidence to demonstrate the benefits of using the objectors land as opposed to using alternative sites or as to whether any alternative method could have been considered to reduce the impact on the objectors land.
13. There has been no formal engagement between the acquiring authority and the objector to discuss the Order the potential acquisition of the objector's land/interests or design and implementation of accommodation works to mitigate the impact of the order. No offer has been made that has enabled appropriate discussions that could have engaged earlier acquisition by agreement before resorting to making the Order which contravenes the guidance set out in MHCLG's Guidance on the Compulsory Purchase Process and the Crichel Down Rules.
14. This Statement of Case is prepared having regard to the facts known at the date of writing. If following formal engagement with the acquiring authority previously undisclosed information is revealed the objector reserves the right to amend, extend or withdraw this statement of case accordingly.
15. The objector maintains their fundamental objection to the Order and wish to exercise their right to be heard by an independent inspector at a Public Inquiry.