

Date: 17 May 2021
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Secretary of State for Transport
C/o Transport Infrastructure Planning Unit,
Department for Transport,
Great Minster House,
33 Horseferry Road,
London
SW1P 4DR

By Post and E-mail to: Transportinfrastructure@dft.gov.uk

Dear Sir/Madam,

Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order - Objection by Taurus Investment Limited - Main Plots of concern : 11-026, 11-029, 11-031, 11-018, 11-019, 11-022, 11-025, 11-032, 11-048¹ (Building 1)

We act for Taurus Investment Limited who are the freehold owner of the above plots. Taurus Investment Limited object to the above order on the following basis:

1. Contrary to the Guidance in the Department of Transport – A Guide to Transport and Works Act Orders Procedures 2006 Network rail has not undertaken adequate consultation at an early stage with affected land owners. Paragraph 2.13 of the guidance indicates that

"Where the project would involve the compulsory acquisition of land or rights in land, the prospective applicant should normally consult the owners, lessees, tenants and occupiers of such land at an early stage. The timing and nature of such consultation will need careful consideration according to the particular circumstances of the project. In many cases this should best be undertaken prior to any public announcement of the intended location or alignment of the project".

The only contact that Taurus Investments Limited have had with Network Rail has been in connection with Land Referencing and only 1 on site meeting to discuss the impact of the proposals has been held with Taurus Investment Limited's agent on the 16th September 2020. At this meeting concerns were raised about access and width for HGV circulation of the building amongst other issues. No resolution of this issue has been identified. The guidance indicates that "mitigation may be agreed as a consequence of discussions with land owners". Obviously in the absence of adequate consultation and discussion, no mitigation has yet been even discussed let alone agreed.

2. As the Department of Transport Guidance – A Guide to Transport and Works Act Orders Procedures 2006, acknowledge the compulsory acquisition of land or rights are subject to the relevant advice in circular 06/04 (now replaced by the Government Guidance "the Compulsory Purchase Process and the Crichel Down Rules" ("the Governments CPO Guidance") dated

Our client reserves the right to identify any further plots included in the order which are identified to give rise to any further impacts on their ownership following further clarification by Network Rail of the impacts of their Order.

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February 2018. Contrary to paragraph 2 of the Governments CPO Guidance, Network Rail have not made all reasonable attempts to acquire land or rights by agreement prior to making the compulsory purchase Order. Taurus Investment Limited have not been approached by Network Rail to grant any necessary licences, easements or acquisition of their land or negotiate HoT's for the same. Taurus Investment Limited remain open to negotiations to acquire the necessary interests (subject to all appropriate mitigation) by agreement and would welcome Network Rail engagement to this end in order to seek to resolve their objection to this order. In the absence of any attempts to acquire by agreement before making the above Order, Taurus Investment Limited would query the adequacy and appropriateness of Network Rail's internal authorisation to proceed to make the CPO.

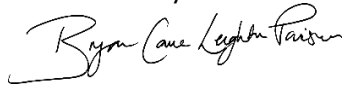
3. The Governments CPO guidance also requires that there must be a compelling case in the public interest to justify the use of compulsory acquisition powers. This compelling case in the public interest must be balanced against the human rights of the owners of private land affected. As part of this balancing exercise the Secretary of State has to have regard to both the extent of the private impact (including the mitigation that is possible) and the compelling case in the public interest. We would contend that unless Network Rail make efforts to mitigate the impact of their proposals this test is not adequately made out.
4. The impact of the Order, if authorised, including all acquisition (land and rights) or temporary acquisition would potentially render unusable the property of Taurus Investment Limited for a significant period of time. Even temporary possession powers under the order appear to be operable for an indefinite period and can then endure until a year after completion of works, creating a significant period of uncertainty for this land interest. However the rights sought include permanent rights as well as temporary possession powers and full land acquisition which potentially affects service access. The timescales for this occupation are therefore unclear and could be a considerable period of time. The temporary possession powers appear to be operable on only 14 days notice meaning they can be utilised at very short notice. The Order affects all areas of land except the built development on the site and therefore potentially affects, access, servicing, circulation and parking.
5. Vehicular access to and from the Unit at all reasonable hours by all necessary vehicle types for access and servicing will be required, this is required over private internal access routes and the adopted public highway (which will need to remain as adopted public highway not withstanding any land acquisition proposed by the Order).
6. Such impacts could have a potentially significant impact on continued occupation and use of the unit by our client's tenants. Accordingly unless appropriately mitigated this impact could result in the disruption of a significant local employers warehouse function potentially rendering the tenants continued occupation of the premises untenable and therefore potentially also having a significant impact on the landlord.
7. Obviously, the extent to which these financial costs have already been taken into account in the estimate of costs is also relevant. Furthermore the benefits to costs ratio of the scheme needs to be supported by a robust business case where the economic benefits are part of the justification to use compulsory purchase powers. Again we would query the extent to which this has adequately been taken into account in Network Rails internal decision making process prior to authorising the making of the compulsory purchase order. Furthermore we would query the extent to which funding is clearly available within the lifetime of the Order to justify the extent of compulsory acquisition powers. Finally, we reserve the right to make further

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comments on the acceptability of the variation of compulsory acquisition powers and the notice timescales for exercise of powers.

We reserve the right to raise any subsequent issues of objection once more is understood about Network Rails proposals and once the impact of the proposed Order on the above Plots becomes clearer following engagement from Network Rail.

Yours sincerely



Abigail Walters

Enc.

LEGAL.211435061.2/ADEA

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Dear Sir/Madam,

Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order - Objection by Taurus Investment Limited - Main Plots of concern : 10-061, 11-005, 11-006, 11-024, 11-002, 11-010, 11-017, 11-009, 11-012, ¹ (Building 2)

We act for Taurus Investment Limited who are the freehold owner of the above plots. Taurus Investment Limited object to the above order on the following basis:

1. Contrary to the Guidance in the Department of Transport – A Guide to Transport and Works Act Orders Procedures 2006 (Paragraph 2.13) Network rail has not undertaken adequate consultation at an early stage with affected land owners. The only contact that Taurus Investments Limited have had with Network Rail has been in connection with Land Referencing and 1 telephone call and 1 on site meeting to discuss the impact of the proposals has been held with Taurus Investment Limited's agent on the 16th September 2020. No adequate mitigation against the powers in the Order has yet been discussed or agreed.
2. As the Department of Transport Guidance – A Guide to Transport and Works Act Orders Procedures 2006, acknowledge the compulsory acquisition of land or rights are subject to the relevant advice in circular 06/04 (now replaced by the Government Guidance "the Compulsory Purchase Process and the Crichel Down Rules" ("the Governments CPO Guidance") dated February 2018. Contrary to paragraph 2 of the Governments CPO Guidance, Network Rail have not made all reasonable attempts to acquire land or rights by agreement prior to making the compulsory purchase Order. Taurus Investment Limited have not been approached by Network Rail to grant any necessary licences, easements or acquisition of their land or negotiate HoT's for the same.
3. The Governments CPO guidance also requires that there must be a compelling case in the public interest to justify the use of compulsory acquisition powers. This compelling case in the public interest must be balanced against the human rights of the owners of private land affected. As part of this balancing exercise the Secretary of State has to have regard to both the extent of the private impact (including the mitigation that is possible) and the compelling

Our client reserves the right to identify any further plots included in the order which are identified to give rise to any further impacts on their ownership following further clarification by Network Rail of the impacts of their Order.

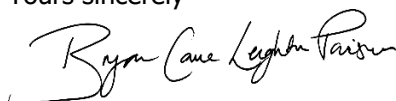
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case in the public interest. We would contend that unless Network Rail make efforts to mitigate the impact of their proposals this test is not adequately made out.

4. The Order powers in respect of the above plots could affect access and servicing to Building 2. It is understood that Network Rail anticipate being able to mitigate the impact of the order on building 2 by retaining adequate access and servicing throughout the construction of their project. However, this requires documenting in order to mitigate against the order as it currently stands.
5. Vehicular access to and from the Unit at all reasonable hours by all necessary vehicle types for access and servicing will be required, this is required over private internal access routes and the adopted public highway.
6. The benefits to costs ratio of the scheme needs to be supported by a robust business case where the economic benefits are part of the justification to use compulsory purchase powers. We would query the extent to which this has adequately been taken into account in Network Rails internal decision making process prior to authorising the making of the compulsory purchase order. Furthermore we would query the extent to which funding is clearly available within the lifetime of the Order to justify the extent of compulsory acquisition powers. Finally, we reserve the right to make further comments on the acceptability of the compulsory acquisition and related powers in the Order.

We reserve the right to raise any subsequent issues of objection once more is understood about Network Rails proposals and once the impact of the proposed Order on the above Plots becomes clearer following engagement from Network Rail.

Yours sincerely



Abigail Walters

Enc.

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