

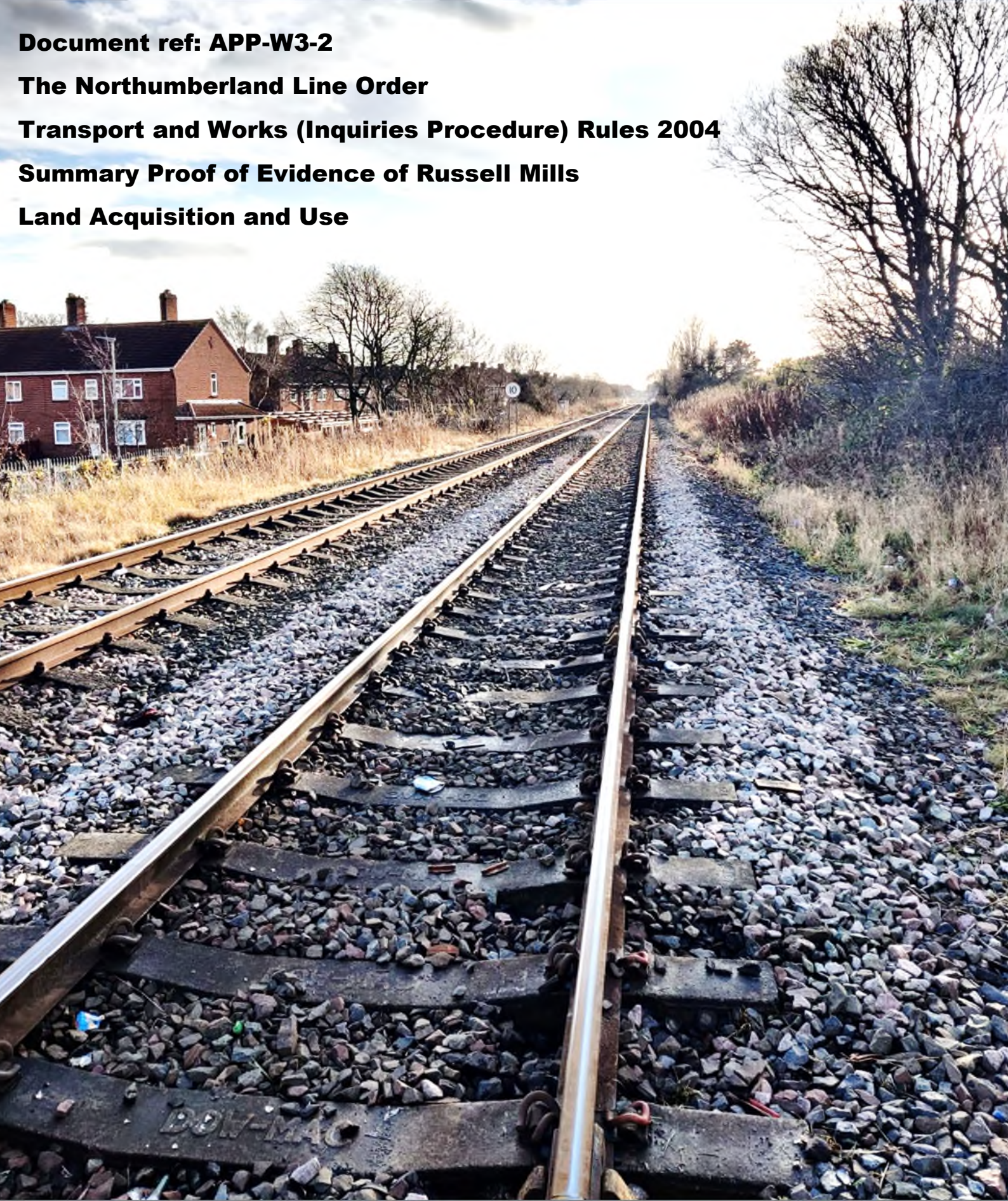
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The Northumberland Line Order

Transport and Works (Inquiries Procedure) Rules 2004

Summary Proof of Evidence of Russell Mills

Land Acquisition and Use



Northumberland
County Council

NORTHUMBERLAND COUNTY COUNCIL
NORTHUMBERLAND LINE ORDER
RUSSELL MILLS – LAND ACQUISITION AND USE
SUMMARY PROOF OF EVIDENCE

CONTENTS

Contents	i
1. Introduction	2
2. Scope of evidence	2
3. NCC’s approach to land acquisition and use	2
4. Powers sought by NCC	3
5. Railway corridor ownership.....	3
6. Compensation provisions	4
7. Communication and engagement	4
8. Human rights	4
9. Temporary closure of footpaths associated with worksites	5
10. Open space.....	5
11. Landowner objections.....	5
12. Conclusion.....	6

1. INTRODUCTION

- 1.1 My name is Russell Mills. I am employed by SLC Property as Head of Acquisition & Development. Prior to taking up this role, I have worked at Carter Jonas and Network Rail, and have been involved in land acquisitions on various railway projects.
- 1.2 I am a member of The Royal Institution of Chartered Surveyors (RICS) having qualified in 2006. I attended the BSc Planning & Development course at Nottingham Trent University.
- 1.3 I have been involved in this Scheme for two years having led the land and property elements from an early stage.
- 1.4 Where I have not undertaken discussions personally with landowners, I have been kept fully informed by colleagues at SLC and NCC's consultants Aecom and Pinsent Masons LLP.

2. SCOPE OF EVIDENCE

- 2.1 My evidence covers the following:
 - 2.1.1 NCC's approach to and justification for the acquisition of land;
 - 2.1.2 the nature and scope of the powers in respect of the acquisition and use of land sought by NCC in the Order [APP-01];
 - 2.1.3 the extent of land subject to those powers;
 - 2.1.4 the compensation provisions that are applied by the Order; and
 - 2.1.5 responses to objections by landowners, including a description of NCC's efforts to reach agreement with landowners and occupiers who have objected to the Order.
- 2.2 My evidence addresses a number of matters identified in the Statement of Matters issued by the Secretary of State, and in particular matters 6 and 10.

3. NCC'S APPROACH TO LAND ACQUISITION AND USE

- 3.1 Not all of the land required for the Scheme is currently in the control of NCC or Network Rail. NCC is therefore seeking powers of compulsory acquisition to ensure it can secure the land interests required for the Scheme in a timely and efficient manner, and to help ensure there are no impediments to the delivery of the Scheme.
- 3.2 NCC has sought to minimise the land required in the Order and the engineering design and consultation processes have been undertaken to ensure the land identified for compulsory acquisition is that which is required for the successful delivery of the Scheme. The MHCLG guidance on compulsory acquisition [APP-26] has been followed in formulating the approach to compulsory acquisition.
- 3.3 Since the Application, the land requirements for the Scheme have been reduced as a result of design refinement and to reflect the outcome of discussions with affected landowners. Some land parcels have been removed, whilst others have been reduced in size. The changes are set out in the Schedule of Proposed Changes to the Draft Order submitted to the inquiry. [APP-INQ-2].

4. POWERS SOUGHT BY NCC

- 4.1 The Order, if made, will confer on NCC the power to compulsorily acquire land, or rights over land, required to construct and operate the Scheme. It would also confer powers on NCC to temporarily occupy and use land for the purposes of constructing the Scheme.
- 4.2 The land over which powers are sought in the draft Order is shown on the Land and Works Plans [APP-10] and listed in the Book of Reference [APP-12] that formed part of the Application.
- 4.3 All areas of land subject to powers in the draft Order are necessary for the Scheme and no land will be acquired permanently, or used temporarily, unless essential to facilitate the Scheme. The plots over which powers are sought and the purpose for the acquisition are set out in paragraphs 4.7 to 4.18 of my proof of evidence [APP-W3-1].
- 4.4 Some of the land that is subject to powers of compulsory acquisition in the Order will subsequently be transferred to Network Rail as part of the operational railway. In addition, some of the land that is subject to powers of temporary use to facilitate works will be made available to Network Rail in connection with the works that Network Rail be responsible for carrying out. Articles 28 and 29 of the draft Order are included to allow NCC and Network Rail flexibility to facilitate this: they provide that powers in the Order can be transferred to Network Rail in order that they can be exercised for its benefit, without the prior consent of the Secretary of State being necessary.
- 4.5 The works required for the Scheme will be divided into the 'Stations Package' and 'Rail Corridor Package' and allocated accordingly between NCC and Network Rail respectively. Where necessary, NCC will transfer to Network Rail the compulsory acquisition powers over the Rail Corridor Package Land.
- 4.6 The freehold of any land on which stations are built (including infrastructure such as platforms, bridges and access ramps) will be transferred to Network Rail on completion of construction of the new or upgraded infrastructure. This also applies to the Chase Meadows footbridge structure which will be built by NCC as part of the Stations Package.

5. RAILWAY CORRIDOR OWNERSHIP

- 5.1 The ownership of the Northumberland Line railway corridor has an unusual structure in that around 2/5's of the entire length is held in private freehold ownership, as set out in Table 1 of my proof of evidence.
- 5.2 Two sections of the line are owned by the Duke of Northumberland. Network Rail has rights to operate and maintain the railway over those two sections by virtue of wayleave leases which were entered into by the Duke and the original railway company in the 19th century. The wayleaves relate to two contiguous sections of the line from Benton Junction to just south of Seghill.
- 5.3 A further two sections of line are owned by Lord Hastings with the first located between Seaton Delaval and just south of Newsham with the second located between Newsham and just south of Bebside.
- 5.4 The supplementary statement prepared by James Holdroyd of Network Rail at Appendix D of my proof contains further information relating to the inclusion of article 35 in the draft Order which make provision to modify the provisions in respect of payments included in these wayleave leases.

6. COMPENSATION PROVISIONS

- 6.1 The draft Order [APP-01] applies Part 1 of the Compulsory Purchase Act 1965 and the Acquisition of Land Act 1981, which require NCC to pay compensation to qualifying parties that have land acquired, or rights imposed on their land, under the Order. Such compensation will be determined in accordance with the Compensation Code.
- 6.2 The compensation provisions in the Order vary depending upon the nature of the powers and the interests of rights being acquired or extinguished. The principles that apply in relation to the compensation payable in respect of the acquisition of particular interests in land is set out in detail in paragraphs 6.3 to 6.23 of my proof of evidence, covering the following:
- 6.2.1 permanent acquisition of land or rights over land;
 - 6.2.2 temporary possession of land for construction;
 - 6.2.3 temporary use of land for access;
 - 6.2.4 powers to extinguish or suspend private rights;
 - 6.2.5 new public rights of way (PRoW) over land; and
 - 6.2.6 additional rights of entry onto land.

7. COMMUNICATION AND ENGAGEMENT

- 7.1 NCC has undertaken on-going engagement with affected landowners. Engagement with the owners of sites required for the stations commenced in August/September 2019 and more comprehensive engagement has continued as the scope of the Scheme has developed.
- 7.2 Section 7 of my proof of evidence sets out in detail the process of communication and engagement that has been undertaken with impacted landowners. This also covers the impacts of the Coronavirus pandemic, which meant that many in person meetings instead took place remotely.
- 7.3 The aim of engagement has been to reach voluntary agreements, thereby minimising the need to exercise the compulsory acquisition powers sought in the Order.

8. HUMAN RIGHTS

- 8.1 Article 1 of the First Protocol to the European Convention on Human Rights sets out that every natural or legal person is entitled to peaceful enjoyment of their possessions.
- 8.2 Article 1 is however a qualified right in that no one shall be deprived of their possessions “except in the public interest and subject to the conditions provided for by law”.
- 8.3 The Order is being pursued in the public interest as required by Article 1 of the First Protocol. The public benefits associated with the Order application are set out in the Proof of Evidence of Stuart McNaughton [APP-W1-1]. The Order, including the requirement to pay compensation, strikes a fair and proportionate balance between the private interests of the landowners and the public interest in securing the benefits of the Scheme to the national railway network and to economic prosperity. Therefore, the interference with Convention rights is justified.

9. TEMPORARY CLOSURE OF FOOTPATHS ASSOCIATED WITH WORKSITES

- 9.1 The proposed Order [APP-01], includes a power to temporarily close streets in both Northumberland and North Tyneside. This to allow NCC to temporarily close any street that might interfere with construction activities, or where there might be a risk to public safety. These streets can only be closed by NCC following consultation with the local highway authority.
- 9.2 The streets listed in the Order have been identified as potentially requiring temporary closure by reference to the location of the temporary worksites, construction activities and haul roads.
- 9.3 The proposed Order also provides that any other street may be stopped up by NCC, but only with the consent of the local highway authority, and subject to reasonable conditions. This provision has been included to provide NCC with maximum flexibility during construction if further temporary closures are required.
- 9.4 The duration and extent of any temporary closures cannot be confirmed at this time and will be subject to the precise construction methodologies adopted which will be discussed with the local highway authority.
- 9.5 The proposed Order provides that, where a street is temporarily stopped up, that street can be diverted. Details of any proposed temporary diversions have not been included in the Order proposals as, at this stage, there is no certainty as to where such diversions would be necessary. NCC would discuss the need and feasibility of any temporary diversions with the local highway authority when appropriate, prior to any diversions taking effect.

10. OPEN SPACE

- 10.1 The proposed Order [APP-01] includes a power to compulsorily acquire the freehold land or permanent rights of way over areas of 'open space' within the meaning of the Acquisition of Land Act 1981 in three locations: at Seghill level crossing, Bebside level crossing and Bedlington station.
- 10.2 A certificate is required from the Secretary of State before powers of acquisition can be confirmed over these parcels.
- 10.3 An application for the certificate was made to Ministry of Housing, Communities and Local Government on the 18th May 2021 and is included as **Appendix B [APP-W3-3]** to my proof of evidence. No objections were received to the application and Secretary of State has indicated his intention to grant the certificates.
- 10.4 I consider it is appropriate for the section 19 certificate to be made by the Secretary of State for the reasons set out in the application.

11. LANDOWNER OBJECTIONS

- 11.1 Tables 2 to 16 in section 11 of my proof of evidence set out NCC's position in response to the objections to the Application which relate to land use or acquisition. These are from the following landowners:
- 11.1.1 Catherine Hopkins (OBJ08);
- 11.1.2 Northern Power Grid (OBJ11);
- 11.1.3 Lord Hastings (OBJ12);

- 11.1.4 Blagdon Estates (OBJ13);
- 11.1.5 Anne Hopwood (OBJ15);
- 11.1.6 John and Lynda Clough (OBJ16);
- 11.1.7 Chris Scorer (OBJ18);
- 11.1.8 BDW/Barratt Homes (OBJ19);
- 11.1.9 Nexus (OBJ20);
- 11.1.10 Northumberland Estates (OBJ21);
- 11.1.11 Malhotra Commercial Properties Ltd (OBJ22);
- 11.1.12 John Watson (OBJ23);
- 11.1.13 Bernicia Group (OBJ25);
- 11.1.14 Malcolm and Kaye Doyle (OBJ26); and
- 11.1.15 Asda (REP04).

12. **CONCLUSION**

- 12.1 NCC has sought to limit the powers proposed in the Order to those that are necessary to secure, in a timely, efficient and economical manner, the land interests and rights identified as being required to deliver the Scheme.
- 12.2 There is a compelling justification in the public interest for authorising the acquisition of the land rights identified to implement the Scheme. Any interference with private property is justified and proportionate.
- 12.3 I therefore ask the Inspector to recommend all of the powers applied for.