

NETWORK RAIL (READING) (LAND ACQUISITION) DECISION LETTER

Winckworth Sherwood LLP
Solicitors and Parliamentary Agents
Minerva House
5 Montague Close
London
SE1 9BB

Ellis Harvey
Head of TWA Orders Unit
Department for Transport
Zone 9/09, Southside
105 Victoria Street
London SW1E 6DT
Enquiries: 020 7944 2474
Fax: 020 7944 9637
E-Mail: transportandworksact@dft.gsi.gov.uk
Web Site: www.dft.gov.uk/pgr/twa
Our Ref: TWA/08/APP/08
Your Ref: PFI/18136/59
24 September 2009

Dear Sirs,

TRANSPORT AND WORKS ACT 1992

APPLICATION FOR THE PROPOSED NETWORK RAIL (READING) (LAND ACQUISITION) ORDER

1. I am directed by the Secretary of State for Transport to say that consideration has been given to the report of the Inspector, Mr C J Tipping MA(Cantab), who held a public local inquiry on 1 and 2 July 2009 into the application made by your clients, Network Rail Infrastructure Limited ("NR"), for the Network Rail (Reading) (Land Acquisition) Order ("the

Order”) to be made under sections 1 and 5 of the Transport and Works Act 1992 (“the TWA”).

2. The Order, if made, would authorise NR to acquire compulsorily land and rights over land for the purposes of implementing the Reading Station Area Redevelopment Programme (“the Programme”). The works contained in the Programme (described in section 3.5 of the Inspector’s report) are authorised under various 19th Century railway Acts and are therefore permitted development not requiring planning permission.

3. Enclosed with this letter is a copy of the Inspector’s report. His conclusions are set out in section 8 of the report, and his recommendation is at section 9. The Inspector recommended that the Order be made, with modifications proposed by NR.

Summary of the Secretary of State’s decision

4. For the reasons given in this letter, **the Secretary of State has decided to make the Order with modifications.**

Secretary of State’s consideration

5. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties. The Secretary of State’s consideration of the Inspector’s report is set out in the following paragraphs. Numbers in brackets are references to relevant paragraphs of the Inspector’s report.

NR’s reasons for promoting the Order and the main alternative options considered

6. The Inspector said that the principal objective of the Programme was to increase the capacity of the rail network in the Reading area by untangling the intersecting rail routes, especially to the west of Reading, and by constructing additional through platforms and lines at Reading Station (8.2.4). The improvements to the Station and the local rail network would not only provide immediate benefits by addressing current problems, but would also meet the medium and long term requirements of the predicted growth in passenger numbers by up to 100%. There would also be associated improvements to the local road network (8.2.6). The Inspector said that it was not disputed by any party that the substantial improvements to Reading Station and the rail network in its vicinity were much to be desired (8.2.7).

7. The Inspector recognised that, since the Programme related to existing railway infrastructure, the elements of the Programme to which viable alternatives were available were limited. As regards the design of the grade-separation to the west of Reading Station, he endorsed NR’s decision to elevate the main lines rather than sink them into a subterranean box. As to the alternative locations considered by NR for the new train care depot, having regard to geographical considerations and the availability of maintenance skills and train staff, the Inspector concluded that the selection of the site at Cow Lane was obviously appropriate (8.2.8 – 8.2.12).

8. The Inspector concluded that the scheme would meet its aims and objectives and that, where alternatives existed, NR’s selection of proposals for inclusion in the Programme was appropriate. He was clear that there was a compelling need for the Programme and that it would bring substantial public benefits (8.2.13, 8.10.1).

9. The Secretary of State agrees with the Inspector that there is a clear and pressing need to resolve the capacity constraints at Reading. He is further satisfied that the

Programme would be an appropriate way of resolving the current problems at Reading and would bring substantial public benefits.

Whether all the land and rights in land for which compulsory powers are sought are required for the Programme

10. The Inspector noted that the proposed redevelopment would largely be accommodated on existing railway land. The compulsory acquisition of less than 2 hectares of land was required, of which only about 0.5 hectares remained occupied, the remainder being the (now vacant) Cow Lane allotments site (8.4.1). Save in respect of the Cow Lane site, no objector had suggested that any of the land proposed to be acquired was not required for the purposes of the Programme. As regards the Cow Lane site, the Inspector was satisfied that there was no satisfactory alternative location for the train care depot (paragraph 7 above refers). Acquisition of the allotments site was required for access, construction and ancillary purposes. The Inspector concluded that all the compulsory acquisition powers sought by NR were required to secure satisfactory implementation of the Programme (8.3.1 - 8.3.2). The Secretary of State agrees with this conclusion, for the reasons given by the Inspector.

The likely impacts of the powers in the proposed Order on the owners and occupiers of premises and land to be used

11. The Inspector reported that, of the 24 objections made to the application, 20 were from owners and/or occupiers of land affected by the compulsory acquisition proposals, and all of these 20 objections had been withdrawn by the close of the inquiry. He inferred from this that there would not be any unacceptable adverse impact on the ability of the owners and occupiers of the land affected by the Order to carry on their businesses (1.3; 8.4.2). The Secretary of State agrees.

The effect of the proposed compulsory acquisition of allotment sites at Cow Lane on the availability of allotments in the Reading area

12. The Inspector reported that the effect of the loss of the Cow Lane allotments site was the sole subsisting contentious issue at the inquiry. He noted that occupation of the Cow Lane site had been lawfully terminated by Reading Borough Council, who had agreed to sell the land to NR. The site was now vacant, and all allotment holders who so wished had been accommodated elsewhere. The making of the Order would have no material further impact on the former allotment holders (8.5.1; 8.5.3).

13. The Inspector considered that the loss of 49 allotments at Cow Lane was more than offset by the 63 allotments which had been brought into use at the Scours Lane site. He considered that the fact that these new plots were on land already designated for allotment use did not detract from the fact that they were not previously in use for allotments and had been brought into use at NR's expense. Beyond that, he took the view that the future provision of allotments in Reading was a matter for Reading Borough Council and that there was no legal basis on which he could recommend that the Council be directed to provide more allotment land. Even if it were concluded that there would be a net loss of allotments in the Reading area as a result of the acquisition of the Cow Lane site, the Inspector considered that any adverse impact would fall significantly short of outweighing the very clear public benefits of implementing the Programme (8.5.1 - 8.5.4).

14. The Secretary of State agrees with the Inspector's conclusions on this matter for the reasons the Inspector gives.

Any mitigation measures proposed by NR

15. The Inspector said that, with the exception of the loss of the Cow Lane allotments, no objector had suggested that any significant adverse impact would result from the exercise of the powers in the Order. As regards the ecological impact of the loss of the Cow Lane site, he noted that no concerns had been raised by any statutory body or local wildlife organisation. The Inspector considered that it was sufficient and appropriate for the potential ecological impacts of the Programme at the Cow Lane site to be determined and addressed at the detailed design stage, as proposed by NR in accordance with Environmental Impact Assessment Regulations. He did not identify any other significant adverse impact which could trigger a need for mitigation measures (8.6.1 – 8.6.7).

16. The Secretary of State agrees with the Inspector that the appropriate context for considering the ecological impacts of the train care depot at Cow Lane and any mitigation measures would be when NR sought approval from the local planning authority to the detailed design of the depot. He is satisfied that no other measures should be required to mitigate impacts arising from the exercise of the powers in the Order.

NR's proposals for funding the cost of the Programme

17. The Inspector noted that the Department for Transport had confirmed that the Programme could be regarded as fully funded. He therefore concluded that the Programme was reasonably capable of attracting the necessary funding (8.7.1). The Secretary of State agrees.

Whether there is a compelling case in the public interest for granting NR the compulsory acquisition powers applied for

18. The Inspector concluded that, taking into account the clear and substantial public benefits of the Programme, the prospects for funding the cost of Programme, and the need for all of the land and rights in land proposed to be acquired, there was a compelling case in the public interest for giving NR the powers sought. He was satisfied that the proposed powers were compliant with the criteria set out in ODPM Circular 06/2004 (8.8.1 - 8.8.2). The Secretary of State agrees with the Inspector that the compulsory acquisition powers sought by NR are justified in the public interest and that the relevant criteria in ODPM Circular 06/2004 are met.

Whether NR has proposed any substantive changes to the draft Order

19. The Inspector was satisfied that none of the changes to the draft Order proposed by NR might be characterised as substantive (8.9.1). The Secretary of State agrees.

The Inspector's recommendation

20. The Inspector recommended that the Order be made, subject to the modifications proposed by NR (9.1).

Secretary of State's overall conclusions and decision

21. The Secretary of State recognises that there is a pressing need to solve the capacity constraints of the rail network in the Reading area and to provide for forecast growth in rail traffic. He considers that the public benefits of the Programme would substantially outweigh any adverse impact on private property interests or otherwise resulting from the Order. He

NETWORK RAIL (READING) (LAND ACQUISITION) DECISION LETTER

has therefore concluded that there is a compelling case in the public interest for granting NR the compulsory acquisition powers required to implement the Programme.

22. Accordingly, the Secretary of State has decided to make the Order with modifications as recommended by the Inspector, subject to a few further minor drafting amendments which do not affect the substance of the Order.

Notice under section 14 of the TWA

23. This letter constitutes the Secretary of State's notice of his determination to make the Order, with modifications, for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your clients are required to publish newspaper notices of the determination in accordance with section 14(4) of the TWA.

Challenge to decision

24. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Distribution

25. Copies of this letter and the Inspector's conclusions and recommendation are being sent to those who appeared at the inquiry and to those whose objections were referred to the inquiry in accordance with section 11(3) of the TWA.

Yours faithfully,

Ellis Harvey

Head of TWA Orders Unit

ANNEX

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the ground that –

it is not within the powers of the TWA, or

any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days from the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking any action.