

The Network Rail (Cambridge South Infrastructure Enhancements) Order



Summary Proof of Evidence

Summary Proof of Evidence – Property (Mr Bill Simms BA(Hons) MRICS)

**Transport and Works (Inquiries Procedure) (England & Wales) Rules
2004**

6th January 2022

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The Network Rail (Cambridge South Infrastructure Enhancements) Order**Summary Proof of Evidence****1. INTRODUCTION**

- 1.1. I am a member of The Royal Institution of Chartered Surveyors (RICS) and a partner at Bruton Knowles, I have acted for a number of acquiring authority clients and claimants affected by projects including CPO's, DCO's and TWAO's.
- 1.2. The proposed TWAO is required to facilitate the development of a new Railway station to the South of Cambridge ("the **CSIE Project**").

2. STRUCTURE AND SCOPE OF THE PROOF OF EVIDENCE

- 2.1 My proof of evidence will address the land and property impacts of the CSIE Project and will cover the matters set out below:-
 - **Section 3:** A description of the purpose of the draft TWAO.
 - **Section 4:** The land that is included in the TWAO and the powers sought.
 - **Section 5:** Justification for the acquisition and use of land and property.
 - **Section 6:** An overview of the Special Category land affected by the CSIE Project.
 - **Section 7:** A review of the scope for owners of an interest in land to claim compensation as a result of the implementation of the TWAO, if confirmed.
 - **Section 8:** Interference with Human Rights.
 - **Section 9:** A summary of Landowner Engagement undertaken on the CSIE Project.
 - **Section 10:** A response to objections by owners of an interest in land on a case by case basis.
 - **Section 11:** Sets out my conclusions.

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- 3.1 The purpose of the proposed TWAO is to enable Network Rail to deliver the CSIE Project. The TWAO and the deemed planning permission directed under s. 90(2A) TCPA 1990, will, if made, authorise Network Rail to carry out works associated with the delivery of the CSIE Project.

4. LAND THAT IS INCLUDED IN THE ORDER AND POWERS SOUGHT

- 4.1 The land which is intended to be acquired or used for the construction, operation and maintenance of the CSIE Project is identified on the deposited land plans (originally submitted as **NR9**; now updated as per **NR22** and **NR23**) and in the proposed TWAO (**NR2**) and the Book of Reference (**NR8**).
- 4.2 The powers to acquire land and rights are set out in the proposed TWAO, they are;
- Rights to close level crossings.
 - Provision for Network Rail to permanently acquire land.
 - Powers to acquire new rights in land.
 - Powers to acquire subsoil or airspace only.
 - Rights over or under streets.
 - Rights to acquire land on a temporary basis.
 - Rights for access on a temporary basis to undertake maintenance works; and
 - Rights to fell and lop trees and access for survey.

The Network Rail (Cambridge South Infrastructure Enhancements) Order**Summary Proof of Evidence****5. JUSTIFICATION FOR THE ACQUISITION AND USE OF LAND AND PROPERTY**

- 5.1 The positive justification of the CSIE Project is set out in other proofs, such as the proofs of Lewis Wingfield (**NRE11.2**) and John Pearson (**NRE9.2**).
- 5.2 The permanent acquisition of land and property is required for the purposes of construction, retention and maintenance of the new station and the new railway tracks proposed as part of the authorised works.
- 5.3 Temporary use of land is required to enable the construction of the project where that land will not be required for the future operation of the authorised works. Temporary possession of land is necessary for the provision of construction compound areas, environmental mitigation works, landscaping works, crane oversailing and the construction and provision of haul roads.
- 5.4 Access to land and property to carry out surveys is also required to minimise the effects of construction of the project on existing land.
- 5.5 New rights are also sought and these are identified in Schedule 3 of the proposed TWAO (**NR2**).

6. SPECIAL CATEGORY LAND AND STATUTORY UNDERTAKERS

- 6.1 This section considers the special categories of land that will be affected by the CSIE Project, as well as those statutory undertakers with affected interests. They are:
- Open Space (Existing Open Space). This is dealt with in detail in David Jones' Proof of Evidence (**NRE8.2**); and
 - A Scheduled Monument. This is dealt with in detail in Jenny Wylie's Proof of Evidence (**NRE7.2**); and
 - Statutory Undertakers, Statutory Utilities and other utility providers. The proposed TWAO includes protective provisions in respect of a range of statutory undertakers. In addition, wording of suitable additional protective provisions have been agreed

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with both statutory undertakers who have objected to the proposed TWAO, and both objections are anticipated to be shortly withdrawn.

7. PROVISION FOR OWNERS OF AN INTEREST TO CLAIM COMPENSATION

- 7.1 The Draft Order provides for compensation to be paid to affected landowners and incorporates elements of the legislation which makes up the Compensation Code, providing for payment of compensation for the value of land taken, injurious affection/severance and disturbance.
- 7.2 The compensation provisions in the proposed Order vary depending on the rights being acquired or extinguished.
- 7.3 In the event that agreement cannot be reached then one or both parties can make a reference to the Upper Tribunal (Lands Chamber).

8. INTERFERENCE WITH HUMAN RIGHTS

- 8.1 Article 1 of the First Protocol to the European Convention on Human Rights provides qualified protection of a person's property, which may be limited where in the public interest. The proposed TWAO 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. It is made under a framework which provides those affected a fair opportunity to object to the Order, consistently with Article 6 of the ECHR.

9. SUMMARY OF LANDOWNER ENGAGEMENT

- 9.1 As part of the process of consultation and engagement Network Rail consulted and sought to engage with those parties who held land interests that were at risk of being included within the proposed TWAO, presenting an opportunity for discussions on land acquisition at this stage in the process. Engagement continues to the present day and will do so in future.

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- 10.1 Some 24 separate legal entities hold an interest in land affected by the CSIE Project; these are included in the Book of Reference **(NR8)**. Of these, 15 parties have objected to the scheme.
- 10.2 In all cases where land and property interests are acquired the objectors have recourse to compensation provisions within the proposed TWAO as set out in Section 7 of my proof of evidence, should they suffer loss or disturbance.
- 10.3 Consideration of each property and compensation related objection lodged by the objectors is addressed in my proof and the common themes in the objections are identified and addressed below:
- **Extent and Impact of Land Taken:** A number of landowners objected to the amount of land being taken for the CSIE Project, some because of potential adverse impacts to their property or proposed development. Network Rail have considered the objections and have been able to reduce or modify the land take areas in order to mitigate the impact where possible.
 - **Lack of Engagement or Negotiations:** Some landowners objected because they considered Network Rail had either not engaged with them regarding the CSIE Project or entered into voluntary negotiations with them for their land. I have provided in the Appendices **(NRE10.3)** to my proof a summary of the engagement that has taken place in respect of the CSIE Project both before the TWAO application and since. This, together with the significant progress in negotiations of Heads of Terms and Legal Agreements containing commitments described in the proof **(NRE10.1)** demonstrates the amount of engagement and negotiation that has taken place both with landowners affected by the project and other consultees with no land taken. All landowners have been approached to engage for the voluntary acquisition of their land and in a number of cases draft Heads of Terms are now at the point where they can be issued imminently.

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- 11.1 I am satisfied that Network Rail has sought to minimise the impact of the scheme upon the objectors and that compensation provisions within the proposed TWAO will ensure that the objectors are fully recompensed as far as is possible with money to offset potential impacts of the CSIE Project.

Signature & Date

A handwritten signature in black ink, appearing to read "J Simms", written on a light-colored rectangular background.

William J Simms**6th January 2022**