

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

SUMMARY PROOF OF EVIDENCE OF SIMON J GILBEY MRICS

PROPERTY

15 March 2023

1 INTRODUCTION

- 1.1 My name is Simon Gilbey. I am a partner at Brown & Co LLP, who are instructed as sub-contractors to Montagu Evans, to act on behalf of Network Rail Infrastructure Limited (**Network Rail**) in connection with the delivery of the land and property requirements associated with the Project.
- 1.2 I qualified as a Member of the Royal Institution of Chartered Surveyors (MRICS) in May 1993. For over 30 years I have acted for statutory authorities and private clients dealing with compulsory purchase claims. For the last 20 years I have been actively involved in the negotiation of land purchases by private treaty, settlement of disturbance claims arising from works, Section 14 claims and Transport and Works Act Order on behalf of Network Rail.
- 1.3 In the Autumn of 2019, Brown & Co LLP were instructed to identify and enter into discussions with parties affected by the Project, to establish initial feedback and to advise on any constraints not clear from a visual inspection.
- 1.4 Following a subsequent review of the Project's requirements, Brown & Co LLP were instructed to progress negotiations for both temporary and permanent land and property requirements.
- 1.5 This summary Proof of Evidence (**Summary**) provides an overview of my evidence in relation to the proposed acquisition of land and rights over land.

2 LAND AND POWERS INCLUDED IN THE ORDER

- 2.1 My Proof of Evidence briefly describes land included in the Order and powers sought over that land and explains that any such land and/or powers are necessary for the Project and no land will be acquired permanently, or used temporarily, unless essential to facilitate the Project.
- 2.2 The Proof of Evidence also confirms that Network Rail is seeking to secure the relevant land and powers by negotiation with individual landowners and occupiers and the powers in the Order would only be exercised where it is not possible or practicable to reach agreement.

3 JUSTIFICATION FOR THE ACQUISITION AND USE OF THE LAND AND PROPERTY

- 3.1 Addressing the matters raised at 5(d) of the Secretary of State's Statement of Matters dated 2 March 2023 (**Statement of Matters**) ("*whether all the land and rights over land which NR has applied for is necessary to implement the scheme*") my Proof of Evidence describes, on a plot-by-plot basis, why and how all the land and rights over land included within the Order are necessary to implement the Project.
- 3.2 The powers over land and proprietary rights sought in the proposed Order have been limited so far as possible to ensure that they are only those necessary for the requirements of the Project.

- 3.3 The Proof of Evidence also confirms that, in accordance with Rule 15 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, notices have been served on the owners, lessees and occupiers of any land affected by the Project.

4 IMPACT ON THE CURRENT OWNERS AND OCCUPIERS

- 4.1 Addressing the matters raised at 3(d) of the Statement of Matters, the Proof of Evidence confirms that there will be very limited impact on the current owners and occupiers of the land to be acquired, including their amenity, access arrangements, and ability to carry out maintenance.
- 4.2 As is clear from my Proof of Evidence, as well as the Statement of Case submitted on behalf of Network Rail, Network Rail has aimed to minimise the use of compulsory purchase of private land. Public owned land (including that owned by Network Rail) has been prioritised for use wherever possible. As such, impact on the amenity and access arrangements of land owned and occupied by third parties, has been minimised.
- 4.3 The only areas where existing owners and occupiers are likely to be affected are at land parcels 003, 004 and 406 and as a result of the rail infrastructure to be installed on Plot 304.
- 4.4 Network Rail has liaised with the owners and occupiers of these plots and with those affected by the works on Plot 304, and at the date of my Proof of Evidence, Heads of Terms have been agreed and solicitors instructed by all parties to document the agreed arrangements in due course.

5 COMPENSATION PROVISIONS

- 5.1 The Proof of Evidence sets out the compensation provisions included in the Order and explains that, in the event where the exercise of powers conferred by the Project results in loss or additional cost to landowners and/or occupiers, they may be able to submit a compensation claim for such costs and losses, which will be considered under the compensation provisions of the Order.

6 INTERFERENCE WITH HUMAN RIGHTS

- 6.1 Addressing the matters raised at 5(b) of the Statement of Matters, my Proof of Evidence explains that the powers sought under the Order are necessary for the delivery of the Project. As such, purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected.

7 SUMMARY OF LANDOWNER ENGAGEMENT

- 7.1 With the exception of any engagement undertaken with the Kilverstone Estate in relation to plots 900 and 904 – 910 (inclusive) (which is covered in Mr Stancliffe's evidence), my Proof of Evidence sets out engagement undertaken with the individual landowners/occupiers affected by the Order and what has been agreed at the date of the Proof of Evidence.

8 OUTSTANDING OBJECTIONS

- 8.1 My Proof of Evidence covers objections submitted in relation to the Order, in so far as they relate to matters within my expertise and remain outstanding at the date of the Proof of Evidence.

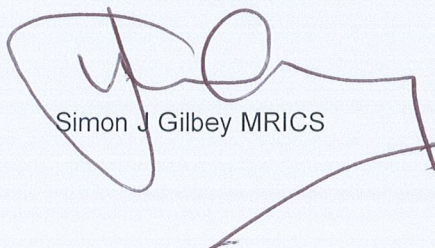
- 8.2 At the date of my Proof of Evidence three objections against the proposed acquisition of land and rights over land remain outstanding, as follows:
- a. OBJ13 – Alex Parmee;
 - b. OBJ15 – Kilverstone Estate; and
 - c. OBJ22 – Mr and Mrs Woodley.
- 8.3 My Proof of Evidence does not consider the objection submitted on behalf of the Kilverstone Estate, as it is addressed in Mr Stancliffe's Proof of Evidence.
- 8.4 As to Mr Parmee's objection and Mr and Mrs Woodley's objection, in so far as they relate to the proposed acquisition of land and/or rights over land, my Proof of Evidence confirms that terms have been agreed and solicitors instructed to progress the agreed deals. As such, it is anticipated that these objections are withdrawn in due course.

9 CONCLUSION

- 9.1 My Proof of Evidence concludes that:
- a. the draft Order has been made in accordance with the relevant guidance, which includes a requirement to seek agreement with land and property interest owners;
 - b. all the land and rights over land, which Network Rail has applied for, are necessary to implement the Project and, therefore, there is a compelling and justified case in the public interest for the powers and proprietary rights sought to be granted under the proposed Order; and
 - c. it is considered that any interference with human rights is proportionate to the public benefit that will be derived from the Project and in the wider public interest in order to secure the benefits resulting from the delivery of the Project.

Dated: 15 March 2023

I believe that the facts stated in this Summary are true.



Simon J Gilbey MRICS