



**THE OBJECTION OF STARK BUILDING  
MATERIALS UK LIMITED OF MERCHANT  
HOUSE, BINLEY BUSINESS PARK, HARRY  
WESTON ROAD, COVENTRY, CV3 2TT  
LEASEHOLDERS OF 239 HORN LANE,  
ACTON, LONDON, W3 9ED**

**TO**

**THE NETWORK RAIL (OLD OAK COMMON  
GREAT WESTERN MAIN LINE TRACK  
ACCESS) ORDER 2023**

**1 June 2023**

**Sanderson  
Weatherall**

## 1. Introduction

- 1.1. We write in our capacity as Chartered Surveyors appointed by STARK Building Materials UK Limited (Objector) of Merchant House, Binley Business Park, Harry Weston Road, Coventry, CV3 2TT.
- 1.2. Prepared by R.M Farr of Sanderson Weatherall LLP (Objector's Agent), Central Square South, Orchard Street, Newcastle upon Tyne, NE1 3AZ.

Email:

Tel:

Mobile:

## 2. Objection

- 2.1. We are instructed to object to The Network Rail (Old Oak Common Great Western Main Line Track Access) Order 2023 for the reasons set out in this document.

## 3. Objector

- 3.1. The objection to the Order is raised by STARK Building Materials UK Limited (formerly Saint-Gobain Building Distribution Limited) who have a leasehold interest in the property.
- 3.2. A copy of the Certificate of Change of Name is attached at Appendix 1.

## 4. Relevant interest within the boundary of the Order

- 4.1. The Objector occupies a prominent location on Horn Lane, Acton close to the junction with Friary Road.
- 4.2. The site has operated as a builder's merchant for in excess of 30 years.
- 4.3. The Objector has traded successfully from this location since 2000, and as Jewson since 2011 providing building supplies to both the trade and public together with small plant hire.
- 4.4. The site provides full time employment for 15 people.
- 4.5. The property comprises the following accommodation:

Description	Area
Warehouse	2,337.65 m
Retail area	104 m
Office	115.86 m
Works offices	119.89 m
Canteen	28.8 m
Mezzanine storage	98.55 m
External storage	45.7 m
Hard surfaced, fenced land	975 m

- 4.6. The above areas are derived from the Valuation Office Agency website.
- 4.7. The Objector's interests are identified in the Book of Reference as follows:

Plot Number	Extent and Description of Land	Description of Interests/Rights
2	4482 m <sup>2</sup> of land comprising warehouse, office, storage yard, parking, hardstanding and access of the public highway being 239 Horn Lane Acton, W3 9ED.	Leasehold interest and associated rights.
3	483 m <sup>2</sup> of land comprising a storage yard, parking, hard standing and access of the public highway being 239 Horn Lane Acton, W3 9ED.	Leasehold interest and rights of way.
4	1,237 m <sup>2</sup> of land comprising a storage yard, parking, hard standing and access of the public highway being 239 Horn Lane Acton, W3 9ED.	Leasehold interest together with rights of access and rights of way.

## 5. Grounds for Objection to the use of Powers of Compulsory Acquisition

- 5.1. Proposals for the construction of this section of HS2 are rooted in The High-Speed Rail (London-West Midlands) Act 2017. It is thus a matter of fact that the evidence cited by Network Rail (NR) in justification of the use of powers of compulsory purchase are rooted in historic policy, statistic, market evidence, law and regulation and that the raising of this order is to rectify a perceived design omission despite the fact that the design has not been finalised or frozen and the wider delivery of HS2 is fundamentally reviewed at regularly intervals.
- 5.2. It is asserted that the mixed use of the site for track replacement and construction of Old Oak Common Station (OOCs) (NR04 Paragraph 4.3) represents two separate projects which will not be delivered simultaneously in a single phase in the current economic climate.
- 5.3. NR provide little or inadequate detail in support of their contention that there is no viable alternative point of access from road to the rail corridor. It is contended that there are a number of alternative options which, if NR were not trying to promote two separate projects (track renewal and construction of OOCs), would satisfy their needs without necessitating the extinguishment of an established business providing a local amenity and employment.
- 5.4. There is no study prepared in a post pandemic world to demonstrate that there is demand from rail users which justifies the preservation of track availability/capacity to the extent asserted in NR's evidence. NR04 Paragraphs 2.2. It is fact that journey numbers on Mondays and Fridays have not returned to pre pandemic levels reducing demand for rail capacity and increasing the opportunity for track maintenance.
- 5.5. NR have not demonstrated that there is an essential need for the facility which they seek to create as a consequence of the use of powers of compulsory purchase or that the works may not be phased removing the necessity for the extinguishment of the Objector's business and use of power of compulsory purchase.
- 5.6. It is unclear from NR's evidence what adverse impact the compulsory acquisition of the interests will have in terms of loss of employment.

- 5.7. Plots 2, 3 and 4 are used for both a business and as amenity to residential use. There is no evidence at this stage that NR has properly considered the occupiers rights in terms of a home (Article 8) and right to peaceful enjoyment of possession, including businesses (Article 1 of the First Protocol).
- 5.8. At NR07 - paragraphs 2.3 to 2.34 NR advise that they have been unable to secure acquisition of area 1 and that the land title has reverted to the Crown. The powers provided by the Order, were it to be confirmed, do not extend to land owned by the Crown and there is no certainty that the scheme could be delivered as NR will not have powers to assemble all land and rights necessary to deliver the scheme.
- 5.9. The temporary acquisition of Area 2 (Plots 2, 3 and 4) for a period of 6 years and 6 months will give rise to the extinguishment of the Objector's business due to suitable relocation opportunities resulting in loss of amenity and employment in the area.
- 5.10. Reference to the website HS2 in OOC and North Acton provides detail of the London logistics hubs established for the construction of this section of HS2, details of the London logistics hub are described on the HS2 website as *"a colossal logistics operation is taking place at HS2's logistic hub near Willesden Junction. The 30-acre site will be the beating heart of the logistics operation for HS2 in London"*. It is worthy of note that the Willesden Logistics Hub lies on the east side less than 1km from the OOC construction site. This raises the question why does NR require a further logistics hub on the Objector's land which lies to the west side of the OOC site some 1.9km by rail?
- 5.11. The Objector's site lies to the west side of Acton Main Station thus the use of the Objector's land as a supply point will result in material and plant passing through the Acton Main Station platform area increasing congestion and heightening safety risk.
- 5.12. Consideration has been given to NR's justification for rejecting the potential RRAPs set out in NR04. The rejection by NR of the potential RRAPs is not accepted as being a fair or reasonable appraisal. It is asserted that if the assumption that the RRAP must be capable of satisfying the needs of track replacement/track alteration and the construction of OOCs simultaneously is dropped and the assumption is made that the work may be undertaken in phases, particularly that of track replacement, then a RRAP could be established on one of the alternative sites without extinguishing a business.
- 5.13. The following points of access should be investigated further in the context of phased working and better use of the Willesden Junction logistics hub:
  - a) Land to the east of the North Pole storage depot where there is a private access into North Pole depot from Mitre Way and the A219.
  - b) Access at the north end of the Big Yellow Storage Box.
  - c) Access off Old Oak Common Lane at the west end of the freight siding.
  - d) Land to the west of Dean Court, 1 Friary Road.
  - e) Access through the car wash builders' yard to the west of 239 Horn Lane.

- 5.14. At NR04 paragraph 5.2 there is an unproven assumption by NR which states that “*any RRAP must be locate to the west of the existing North Pole depot*”. There appears to be no evidence in support of the assumption that an engineered solution to any disruption of the North Pole dept could not be achieved if the RRAP was introduced in or east of the North Pole depot.
- 5.15. NR estimate the costs (NR06) at £10,980,270. It is asserted that the land acquisition costs, based on market value estimate, is assessed on the wrong basis and inadequate in amount.
- 5.16. The compensation due to the Objector is by reference to the Land Compensation Act 1961 Section 5 (6) Business Losses not Section 5 (2) Market Value.
- 5.17. The Objector questions whether the scheme has adequate funding and therefore whether the scheme is capable of delivery.
- 5.18. In the matter of funding, NR are asked to clarify reference to “*Implementation Partnership Agreement dated June 2023*” (NR05 paragraph 1.1.4) given that the Order was published prior to the aforementioned agreement.
- 5.19. NR at paragraph 4.51 NR07 Consultation Report state that they have been in contact with the Objector’s Agent, Sanderson Weatherall, since July 2020. This is incorrect, the first communication received by Sanderson Weatherall from NR took place in July 2021. There have been 35 separate communications between the parties since July 2021 to date.
- 5.20. The Objector asserts that they have security of tenure under the provisions of the Landlord and Tenant Act 1954 and have a legal right to renew their lease in April 2025.
- 5.21. NR have, since July 2021, maintained a periodic contact with the Objector’s Agents but have not made an offer of compensation or sought to acquire the Objector’s interest by agreement.
- 5.22. NR have assumed that the Objector’s landlord would resist the Objector’s application for lease renewal on the grounds of a hypothetical residential development scheme for which planning permission has not been granted and in making this assumption NR are promoting a cap on compensation limited to the statutory formula contained in the Landlord and Tenant Act 1954.

## 6. Summary

- 6.1. A CPO should only be made where there is a compelling case in the public interest and the acquiring authority must be able to demonstrate that there are sufficient compelling reasons for the powers to be sought at this time.
- 6.2. The Order fails the test that a balance has to be struck between the competing interests of those whose rights have been affected and the community as a whole. NR have failed to demonstrate such a balance when raising the order and have disregarded the physical form, commercial benefit, provision of amenity and provision of employment provided by 239 Horn Lane, Acton.
- 6.3. In light of the above the Objector raises an objection to the Network Rail (Old Oak Common Great Western Main Line Track Access) Order 2023 and wish to exercise their right to be heard at a Public Inquiry.

## **APPENDIX 1**

### **Certificate of Change of Name**



## FILE COPY

# CERTIFICATE OF INCORPORATION ON CHANGE OF NAME

Company Number **1647362**

The Registrar of Companies for England and Wales hereby certifies that under the Companies Act 2006:

**SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED**

a company incorporated as private limited by shares, having its registered office situated in England and Wales, has changed its name to:

**STARK BUILDING MATERIALS UK LIMITED**

Given at Companies House on **1st March 2023**



\* N01647362G \*

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



## Notice of Change of Name by Resolution

Company Number: **01647362**

Company Name: **SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED**

Received for filing in Electronic Format on the: **01/03/2023**

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Notice is hereby given that the company has changed its name as set out in the attached resolution

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### Authorisation

Authenticated

This form was authorised by one of the following:

Director, Secretary, Person Authorised, Administrator, Administrative Receiver, Receiver, Receiver manager, Charity Commission Receiver and Manager, CIC Manager



COMPANIES ACT 2006  
SPECIAL RESOLUTION ON CHANGE OF NAME

Company number: 01647362

Existing company name:  
SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED

The following special resolution to change the name of the company was agreed and passed by the members.

On the 28th February 2023

That the name of the company be changed to:  
STARK BUILDING MATERIALS UK LIMITED