

TRANSPORT AND WORKS ACT 1992

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

LOCAL PUBLIC INQUIRY

Inspector: Malcolm Rivett BA (Hons) MSc MRTPI

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Network Rail (by email)

18 October 2023

Dear Sir/Madam

Statutory Procedural Requirements – Consultation

1. You will be aware that one of the Matters the Secretary of State has asked to be informed about in respect of the Order is whether all statutory procedural requirements have been complied with. In the light of this I have been considering the consultation undertaken on the Order as detailed in the submitted Consultation Report (CD 06).
2. The Consultation Report correctly explains that the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 require applicable bodies listed in Schedule 5 and 6 of the Rules to be consulted on the Order. The Report helpfully sets out Schedules 5 and 6, annotated to show which bodies Network Rail considers to be applicable in this case. I asked for a brief explanation of some of the organisations which were marked as being “not applicable” in this case and I thank Mr Fleming for providing this in sections 7.10 and 7.11 in his Proof of Evidence.
3. In terms of the Mayor of London (Schedule 5, no. 28) and the relevant Fire and Rescue Authority (Schedule 6, no. 11) Mr Fleming states that “*no actual built development will be carried out under the Order*” and he goes on to explain that the works involved are Permitted Development. However, I am somewhat confused by this statement because I understood that, although some of the necessary works are Permitted Development, others are not and, hence, are the subject of the Request for Deemed Planning Permission under the Order.

4. The submitted Planning Statement (CD 11.1) describes the works which are the subject of the Request for Deemed Planning Permissions as:
- erection and construction of temporary worksites, including lay down and storage areas and other buildings, yards, slab, cranes, plant and machinery, apparatus, fencing and other works and conveniences; and;
 - provision of temporary haul routes
5. To my mind these would appear to be works for which authority is being sought through the Order. Consequently, on the face of it, it seems that the Mayor of London and the relevant Fire and Rescue Authority are organisations for which consultation on this Order would be applicable.
6. Furthermore, my understanding is that these same works are to be undertaken ancillary to the operation of a transport system. Thus, on this basis, it would also appear that Her Majesty's Railway Inspectorate (Schedule 5, no. 24) is also an applicable body in connection with consultation.
7. In terms of the relevant highway authority (Schedule 6, no. 6) Mr Fleming states "*Network Rail do not believe that the proposals will have an adverse impact on traffic volume on the surrounding roads, or entering/egressing the site onto Horn Lane.*" However, to my mind this response does not appear to fully address the "test" set out in Schedule 6 – ie "*Works likely to affect the volume or character of traffic entering or leaving.....(ii) any other classified road.*" I note the statement that Ealing Council (who I understand are the highway authority for Horn Lane) were consulted on the Order. However, was it made clear to the Council that their views as Highway Authority were being sought?
8. I would be grateful for Network Rail's response to the points I have raised as soon as possible and, certainly, no later than 3 November 2023. I think it is important that this matter is, exceptionally, dealt with prior to the opening of the Inquiry; if it were to be the case that all necessary statutory consultation on the Order has not been carried out then it might not be appropriate to continue with the Inquiry until that is rectified.

Yours faithfully,

Malcolm Rivett

INSPECTOR