



Summary Planning Proof of Evidence

Mark Connell

Transport and Works Act 1992

Transport and Works (Inquiries Procedures) Rules 2004

The Network Rail (Old Oak Common Great Western Mainline Track
Access) Order

Department of Transport References TWA/21/APP/01/OBJ/8; TWA
23/APP/02

On behalf of Bellaview Properties Limited

Qualifications and Experience

- 1.1 I hold a Bachelor's of Science (with Honours) in City and Regional Planning and a Diploma (Distinction) in Town Planning from Cardiff University. I am a chartered member of the Royal Town Planning Institute (RTPI).
- 1.2 I have over 20 years of experience working in the field of Planning and have specialised in high density residential-led schemes in London. I am the joint Managing Director of Sphere25, a specialist planning consultancy established in 2019. Prior to this, I was a National Director at JLL, a global property consultancy.
- 1.3 During my career I have been involved with a variety of complex urban development projects across London and the South-East. This has included notable experience in West London and Ealing in particular.
- 1.4 I can confirm that my evidence to this inquiry is provided in accordance with the guidance of my professional institution. The opinions expressed are my true and professional opinions.

Introduction

- 1.5 Network Rail Infrastructure Limited submitted an application to the Secretary of State for Transport on the 17 April 2023 to make the Network Rail (Old Oak Common Great Western Mainline Track Access) Order under the Transport and Works Act 1992. The Draft Order **[CD01]** seeks to compulsory acquire rights over land and possess land on a temporary basis at Horn Lane, Acton, London.
- 1.6 The Draft Order is accompanied by a Land Plan **[CD08]**. The Land Plan includes four distinct plots. For ease of reference, this is replicated below.

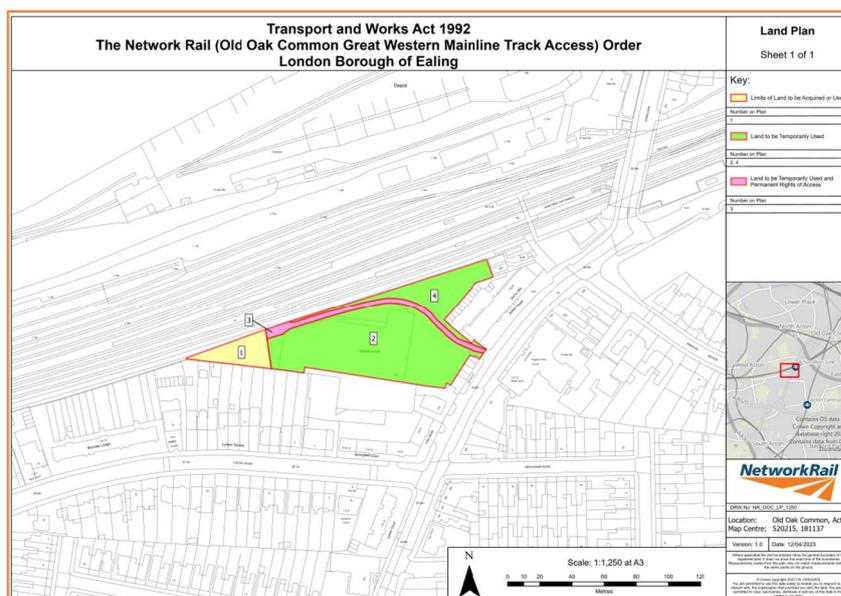


Figure 1 : Excerpt from Land Plan, DRW No: NR_OOC_LP_1250

- 1.7 Network Rail requests¹ a direction from the Secretary of State for deemed planning permission² for the development sought in the Draft Order. Bellaview Properties Limited (**BPL**) objected to the Draft Order.
- 1.8 My evidence focuses on matters of planning practice and policy. My evidence explains how the planning application for deemed permission is deficient in detail to allow a proper consideration of what is being proposed. It shows that Network Rail have not demonstrated that all of the land and rights sought are needed for the project. My evidence also shows that the proposed conditions are inadequate, and that the current proposals will jeopardise delivery of the recent resolution to grant planning permission for a mixed use development of the site. Both in terms of timing and land sought.

Context

- 1.9 The site (consisting of plots 2,3 and 4 of Figure 1) is owned by BPL and is currently in operation as a builders' merchants. It is located next to residential homes and is accessed from Horn Lane (A4000). The site abuts neighbouring residential on Lynton Road to the south and Acton House, a 7 storey block of flats to the northeast. .
- 1.10 The northern boundary of the site borders Network Rail land, and the Great West Mainline. The site is in close proximity to the new Acton Mainline Station and public realm.
- 1.11 Redevelopment of the site for a mixed use scheme including new housing has been a longstanding ambition of Ealing Council, and the site is allocated in the adopted development plan (policy ACT6 in the Development Sites DPD December 2013). The Council has recently resolved to grant planning permission for a development that includes 185 homes and a builders' merchant.

Planning Policy Framework

- 1.12 National Planning Policy seeks to bring forward sustainable development without delay. This includes new homes in accessible locations. The London Plan similarly advises that sites near stations should be optimised. The NPPF states that planning permissions for new homes should be delivered without delay. This is echoed by the London Plan.
- 1.13 The site is allocated for a high density, high quality mixed use development, including commercial and residential uses in both the adopted and emerging local plan. The site has a recent resolution to grant planning permission for 185 homes and a builders' merchant in accordance with the development plan.

¹Pursuant to rule 10(6) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (2006 Rules),

² Under section 90(2A) of the Town and Country Planning Act 1990

- 1.14 Unlike the more sensitive location of the BPL site, land to the north of the railway lines is identified for B8 uses and the consolidation and maximisation of existing freight operations and complementary uses at the railways sidings.
- 1.15 Planning Policy at all levels requires decision makers to take into account amenity issues of neighbours that may be impacted by development.

Statement of Matters

- 1.16 The Draft Order seeks to compulsorily acquire temporary possession of the BPL land ownership. The indicative timetable suggests that the site will be possessed until 21 December 2029. During this period, the existing business cannot continue trading, and a replacement facility and new housing cannot be built.
- 1.17 The duration and extent of the temporary possession exceeds the duration of the draft planning permission and prevents the implementation of a phase of development on the site, such as the new builders' merchant.
- 1.18 There are no outstanding objections from Network Rail to the BPL planning application. Network Rail believe that "*the proposed residential development of the Order land is likely to be delayed, but not fully prevented*". Network Rail expressly agreed a condition stating that the planning application "*works that were phased on the footprint of the existing warehouse building will be assumed to provide no impediment to Network Rail's works*". Yet, Network Rail now seek to temporarily possess the warehouse (as well as the rest of the site), which runs counter to the agreed position. Furthermore, despite the agreement of a 5 year lifetime for the planning permission, the programme of works submitted by Network Rail persists for 6 years. Beyond the lifetime of the permission.
- 1.19 This 6 year period is not guaranteed either. Consultation material has referenced 8 years, and Network Rail have sought a planning permission that would allow them up to three years just to implement (6+3 = 9 years or 8+3 = 11 years). Whilst being stated as a temporary permission, no condition with an expiry date is proposed. The timetable is indicative, giving no certainty to BPL (or residents). Even if time were not an issue, the permanent right sought runs through the access core of BPL's scheme.
- 1.20 The proposed access route does not reflect the position agreed as part of the planning application for Network Rail's access to the Triangle land (Plot 1). The easement runs through a core of the mixed-use scheme that would prevent it from being built. The proposed access route to through the site is incompatible with the approved scheme.
- 1.21 This runs counter to Network Rail's representations to the planning application and their subsequent statement of case that claims the development will be "*delayed but not fully prevented*".

- 1.22 The case for needing all the land is not substantiated. There is a dearth of information as to why such significant spaces are needed for staff car parking, offices, welfare, and storage. Network Rail acknowledges that the site provides “*enough*” land for the project. What is not referenced is the precise requirements and actual needs to deliver the project. Network Rail’s contractors Colas Rail have demonstrated that they only require part of the site to undertake works, and that the site is capable of being shared.
- 1.23 The deemed planning application provided is scant in detail and does not address the validation requirements for such a scheme. Issues ranging from Air Quality, Artificial Lighting, Noise, and Transport have not been assessed as part of the planning application. The absence of such information presents a difficult job for the decision maker, and the ability to attach conditions to mitigate impacts is limited. Of the 5 conditions proposed, 4 conditions are pre-commencement, potentially further delaying works on site and extending the timetable. The time limit condition meanwhile allows three years to commence development from the date of the Order. Finally, the absence of an expiry date for the temporary deemed permission creates all the circumstances for delay in returning the site to BPL, and a loss of the current lawful use.

Conclusion

- 1.24 The submission by NR is deficient in information to allow a full assessment of the impacts on residents and businesses. The proposed area of land sought conflicts with a recently committee approved planning application that accords with a site allocation in the local plan. Furthermore, the duration of the deemed permission sought by NR would prevent it being delivered – in contrast to written assurances. Meanwhile, the need for all the land specified is not substantiated.
- 1.25 Taken together, it is not proven that the public interest is served in approving the Draft Order and granting deemed planning permission.

Mark Connell

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