

Norton Rose Fulbright LLP
FAO Carina Wentzel & Ellie Cooper
3 More London
London
SE1 2AQ

Network Rail
Oxford Phase 2
Temple Point
Redcliffe Way
Redcliffe, Bristol
BS1 6NL
30th June 2023

Ref: OBJ 08

SENT ELECTRONICALLY

Dear Ms Wentzel & Ms Cooper,

Thank you for your email dated 05th June 2023 attaching your client's objection to 'The Network Rail (Old Oak Common Great Western Mainline Track Access) Order' (**Order**) sent to the Transport Infrastructure Planning Unit (TIPU) (**Objection**).

In response to your objection relating to the Order, I note your 15 separate points under sub-headings 'Grounds for Objection' and have compiled responses under similar format below.

Ground 1 (Absence of a compelling case in the public interest)

16. In preparing its application for the Order, Network Rail has considered Article 1 and Article 8 in the European Convention of Human Rights (**Convention**) and considers that there is no compelling case in the public interest for compulsory acquisition powers to be granted as part of the Order. The Order, including the requirement to pay compensation, strikes a fair and proportionate balance between the private interests of affected landowners and the public interests in securing the benefits of the scheme. Therefore, the interference with Convention rights is justified.

On 23 June 2023 the Secretary of State has confirmed its decision to hold an inquiry into Network Rail's application for the Order and TIPU will be in touch shortly to provide details on venue/dates and procedure to follow.

17. Network Rail believes there is a compelling case in the public interest for compulsory acquisition. The Order has been submitted as there is no other alternative means that Network Rail can secure access to the GWML. Network Rail has been and will continue to negotiate with stakeholders to prevent the requirement of the Order but will continue both methods in parallel to ensure its essential need for the Road Rail Access Point (RRAP) is obtained.

18a. The Acton Goods Yard is located on the north side of the railway alignment (providing Reliefs access only) it is not suitable as a replacement to the Jewson's site (which provides access to the Mains lines).

Please see points below which sets out the rationale for site selection;

- Access to the railway is split into 'mains' and 'reliefs' access blocks, generally alternating each weekend.
- This is to allow 2 of the 4 lines to remain operational each weekend to maintain a train service for Heathrow Express, Crossrail and Great Western Railway (the Train Operating Companies – TOCs)
- The two tracks to the south are the 'mains' and as such any access point to the north/east of the tracks cannot be used as these would be on the live railway
- The HS2 project requires extended 'mains' blocks to deliver their works, running from Saturday night through to Monday morning

18b. The Triangle land, as correctly stated, is held by the Crown Estate and is currently being pursued by Network Rail. Unless and until this land is secured, Network Rail has no access to and/or rights over this land. In any case, however, the land does not provide enough space to operate the proposed logistics compound and additional land take is, therefore, required.

19. Network Rail has considered alternative locations for the scheme and has not identified any suitable alternative. Network Rail has identified the need to provide welfare and office facilities which can be delivered in the existing warehouse. In any event, during the works it is not considered that the continued operation of the builder's merchant would be compatible with the use of the site for as a temporary RRAP.

Materials & plant need to be brought to the compound so that they can access the railway from the temporary RRAP. There are two ways which this can be done 'just-in-time' or by using storage areas. 'Just-in-time' delivery involves delivering all plant and materials exactly at the time they need to get onto track (direct from supplier or a hub site). This imparts more risk and cost to our programme but more importantly, it would increase the levels of vehicle movements significantly during night-time hours increasing noise and light pollution. It is preferred to use storage on site with deliveries made ahead of time in quieter periods during the day. Therefore, with a preference to deliver and store materials on site, the existing warehouse is a natural place to utilise. The existing Jewson's business could not operate as it does today during the construction period due to the removal of their car parking and outdoor storage areas and the interface between our construction site and a public facing enterprise as such it is proposed the shed is also vacated and used for the storage area.

20a. Network Rail has to follow CDM (Construction Design Management) places responsibility on both Client (Network Rail) (Regs 4 (2) b) and Principal contractor (SRSA) (regs 13 (3) a,b,c and regs 13 (4) a,b,c) to ensure suitable welfare facilities are provided as dictated by CDM Schedule 2 – welfare facilities. Network Rail has identified that these facilities need to be located at the temporary RRAP.

20b. The railway will be closed during hours of work due to No Book Service (NBS) Periods. Parking Spaces are required for Road and Rail Vehicles (RRV) parking, Deliveries of materials etc.

20c. During the period of use of the temporary RRAP, the land is required for the other purposes described including storing materials and providing associated construction facilities. The temporary acquisition is appropriate in the circumstances.

20d. Permanent rights of access would be required post construction once the temporary compound has been demobilised. Permanent RRAP is only sufficient to support maintenance of the railway post OOC station construction, not to support the construction of OOC station itself. The reasons why permanent RRAP cannot be used for construction delivery are;

- Additional enabling works required that would make us miss construction delivery timescales
- the size of the compound and access route between the warehouse & track are insufficient to use the larger volume and physical size of machines & equipment we need to deliver the OOC station works

21. Network Rail believes the Order is the only option to progress its scheme as negotiations have not been successful to date. In any case, however, Network Rail will continue liaising with the affected parties with a view to securing the required rights and land by way of private agreements.

Ground 2 (Implications for BPL)

22, 23 & 24. Network Rail is having ongoing dialogue with BPL in relation to the site and potential requirement for a group company to be relocated. Network Rail hope to reach agreement on this issue. At present, Network Rail does not fully understand Bellavue's proposed timetable for the use of the site in terms of development aspirations and the relocation of the existing and proposed builder's merchant occupier. It has been identified, however, that the use of the permanent RRAP is consistent with Bellavue's redevelopment aspirations.

Ground 3 (Inadequate assessment)

25. As described in the planning statement the actual construction works linked to the use of the site are very limited. The existing warehouse will remain as it is, the existing hardstanding will remain as it is with some new painted lines on the surfacing and the existing vehicular access will remain as it is albeit with a new security hut at the entrance.

Network Rail may need to install some temporary lighting and temporary hoardings which detail is yet to come but this has been suggested by planning condition.

Network Rail has outlined clearly in the planning statement that their construction activities at the site are very limited to facilitate the temporary use of the site as a lineside logistics compound which will include alterations to the fence line between the existing builder's merchant and the railway to allow road rail vehicles to access the railway from the adjoining land.

There will be deliveries of railway materials during daytime hours by HGV but all materials leaving the site will be along the railway to the construction site and not on the road network. The deliveries of rail associated materials will be significantly less than the amount of

construction materials currently being delivered by HGV and then collected by customers in a combination of vans, cars and HGV's associated with a retail / trade builders merchant.

The actual construction activities on the railway itself are proximately 1km to the east so the main construction activities associated with altering the mainline railway will not disturb adjoining properties. The site will purely be used to store materials within the existing warehouse, parking for RRVs, parking for operative's cars, small amount of support offices within the existing building and the loading of materials onto RRVs to then travel down the railway to the east where the main construction activities will take place.

26. The allocation in Ealing DPD envisaged the redevelopment of this site between 2016 – 2021 which clearly has not been achieved within the timeframe identified. The temporary use of the site does not mean that the site can never be redeveloped but any redevelopment of the whole site would need to be delayed. Network Rail have previously suggested that there could be potential for both uses to come forward at the same time with a carefully planned phased development and negotiations are ongoing between the parties in this regard.

Therefore, based on the existing use on site and the compared to proposed temporary use of site further assessment by Network Rail is not required as we believe we will cause less traffic and less disturbance than the existing busy builder's merchant.

27. Network Rail believes the application for planning permission via S90 is appropriate and robust, if there are any further concerns, we welcome to discuss in more detail with yourselves.

Ground 4 (Inadequate funding)

28. Network Rail has sought external advice in relation to this but would welcome the sharing of information so that the difference in value can be clarified.

29. Network Rail's has a quality assessment of acquisition costs from external consultants and these costs are available to Network Rail as confirmed in the Funding Statement submitted with the application for the Order NR05. The Implementation Partnership Agreement was worked up prior to submission of the Order application on the 17th April 2023 and was signed off as stated in NR05 Funding Statement on 15th June 2023 due to governance panels Network Rail had to go through.

I hope this resolves your objection to The Network Rail (Old Oak Common Great Western Mainline Track Access) Order, if so, we would be grateful if you would please withdraw your objection by writing to; Transport Infrastructure Planning Unit, Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR or by email at transportinfrastructure@dft.gov.uk . Please include "Old Oak Common Great Western Mainline Track Access)" in the title of any correspondence.

If further information is required, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "Rory McKeever". The script is fluid and cursive.

Rory McKeever
Consent Manager
Telephone: 07395 395759
Email: Rory.McKeever@Networkrail.co.uk
For and on behalf of Network Rail Limited