

Secretary of State for Levelling Up, Housing and Communities
c/o DLUHC National Planning Casework Unit
5 St Philips Place
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Birmingham
B3 2PW

Our Ref
DLO/DLO/198529.0014
Date
21 December 2023

Dear Sir or Madam

**PROPOSED NETWORK RAIL (LEEDS TO MICKLEFIELD ENHANCEMENTS) ORDER
APPLICATION FOR A CERTIFICATE UNDER SECTION 19 OF THE ACQUISITION OF LAND ACT 1981
(THE 1981 ACT)**

We act for Network Rail in relation to the application for the above-mentioned order under the Transport and Works Act 1992 (**TWA**).

This letter requests a certificate from the Secretary of State under Section 19 and Schedule 3 to the 1981 Act in connection with certain parcels of land at Austhorpe Lane, Leeds which are subject to powers of acquisition in the proposed Order and which may be 'open space' within the meaning of the 1981 Act.

The proposed Network Rail (Leeds to Micklefield Enhancements) Order (the **proposed Order**) forms part of the wider programme of works, known as the Transpennine Route Upgrade (TRU), a major programme of improvements to trains between York, Leeds and Manchester. The matters for which provision is made in the proposed Order include the compulsory acquisition of land and rights, the temporary possession and use of land, the closure of level crossings, the extinguishment and diversion of rights of way, the extinguishment of private rights and the carrying out of certain ancillary works.

The application for the proposed Order was submitted to the Secretary of State for Transport on 17 July 2023. A procedural decision was made on 6 October 2023 to hold an inquiry. The inquiry will sit on the following dates: 27 February – 1 March 2024, 5 – 8 March 2024 and 12 – 15 March 2024. A Pre-Inquiry Meeting with the inspector is scheduled for 12 January 2024.

Land at Austhorpe Lane

The areas of land at Austhorpe Lane that are proposed to be acquired are shown shaded and numbered as plots 7-010, 7-016, 7-016B and 7-017A on the enclosed Open Space Plans (at Appendix 1). This land is also identified on the land and works plans submitted as part the TWA application which show these plots in the wider context

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of the land within the order limits. The relevant sheet from the land and works plans is enclosed at Appendix 2 – sheet number 4.

We also enclose the relevant extracts of the provisions in respect of the acquisition and use of land from the draft Order (at Appendix 3).

The purpose for which the land is required, and the basis on which the certificate is applied is described below

The land comprises woodland forming part of the embankment adjacent to the Austhorpe Lane Overbridge. Whilst the land is presently in private ownership, it is identified as ‘public open space’ in the Book of reference on the basis that the plots are proposed to be transferred to Leeds City Council in connection with a major development site to the west. Following the transfer to the council the land will become a public park. Presently, some of the land forming part plot 7-017A may be being used for informal recreational use. Network Rail is therefore seeking certificates under the 1981 Act on a precautionary basis as the land may be or may become open space for the purposes of that Act.

The land is proposed to be acquired under the Order for the purposes of replacing the existing Austhorpe Lane Overbridge (HUL4/21) and Austhorpe Lane Footbridge (HUL4/21A) and for the underground diversion of the existing Gas Main (HUL4/20B). In relation to the specific plots, the powers of acquisition are required for the following purposes:

- (a) Plots 7-010 and 7-016B: acquisition of land required for the construction of the replacement of Austhorpe Lane Overbridge and steps for access to the railway.
- (b) Plots 7-017A and 7-016: acquisition of rights under and over land for the installation of the Northern Gas Network’s diverted gas main and a monitoring post at ground and for access to the land for maintenance purposes.

For Plots 7-010 and 7-016B a certificate is applied for under section 19(1)(b) of the 1981 Act on the basis that that the land proposed to be acquired does not exceed 250 square yards in extent and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public. The total area of land that is proposed to be acquired is 131.06 m² (which is 156.74 square yards).

The giving in exchange of other land is not necessary as plots 7-010 and 7-016B comprise a small parcel of land immediately adjacent to the active railway, parts of which are on a steep embankment.. The quality, location and size of the land means it has no inherent value or significance in terms of being used for public recreation. Therefore, providing replacement land would not yield any benefits nor serve any practical purpose.

For Plots 7-017A and 7-016 a certificate is applied for under paragraph 6(1)(a) of schedule 3 to the 1981 Act on the basis that the land, when burdened with the right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before.

The rights sought to be acquired over Plots 7-017A and 7-016 are an easement for the installation and subsequent maintenance of an underground gas pipe and a small monitoring post at surface level. Almost all of the apparatus would be underground and therefore the creation of these rights over the land would not prevent any recreational use of Plots 7-017A and 7-016 as open space. The only apparatus at surface level would be a

small monitoring post which would extend 750mm from ground level. Occasional access over the land would be needed for inspection and maintenance purposes. Accordingly, the imposition of the rights sought in the Order would not result in the land being less advantageous to those persons in whom it is vested and to the public, than it was before.

Should the Secretary of State be minded to give the certificates please would you notify us as soon as possible so that we may take steps to publicise the intention to give the certificate, as required by section 19(2) of the 1981 Act. To assist you in this respect we have drafted a suggested form of public notice of intention to give the certificate, which closely follows that used in previous cases linked with TWA Order applications (at Appendix 4).

It would seem sensible that any resulting objections to or representations on the proposed certificate are referred to the same public inquiry to be held for objections to the TWA application. As detailed above the inquiry will sit over a period of 3 weeks beginning on 27 February with the last sitting scheduled to be on 15 March 2024.

Network Rail will explain the position regarding the application for the s.19 certificate to the Inspector at the Pre-Inquiry Meeting on 12 January 2024.

If you require any further information, please do not hesitate to contact me.

Yours sincerely



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