

Your reference SFIT/1001174320
Our reference ELSEM/43283-4013

7 February 2024

Norton Rose Fulbright LLP
3 More London Riverside
London
SE1 2AQ

By email only:
sarah.fitzpatrick@nortonrosefulbright.com
giulia.barbone@nortonrosefulbright.com
carina.wentzel@nortonrosefulbright.com

Dear Sirs

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

We refer to your additional objection letter dated 30 January 2024 (**Additional Letter**) and respond to the points raised at paragraph 14 (a) – (e) as follows.

- a. We note that you are concerned that the thickness of the redlines on the Order Plan and Site Sharing Plans means that Network Rail seek to acquire compulsory land rights in respect of a part of the existing warehouse and seek to encroach on the proposed development site.

This is not the case. The plans have been prepared by experienced land referencing agents in the usual way and the redline exists to denote the boundary of the site. The precise boundary of the site is denoted by the black line that sits underneath the red line and which becomes visible when the plan is enlarged significantly as you have done. We have included clause 1.3 in the Deed of Undertaking to clarify, in relation to the Site Sharing Plans, that the black line underneath the red line denotes the boundary of the relevant parcel of land.

Nevertheless, we have asked Network Rail to ask the land referencing agents to update the plans so that the red line does not exceed the width of the black line.

- b. We note that you have stated that the area you have circled on Site Sharing Scenario Plan 1 in your Additional Letter (**Circled Area**) should not be included in the Order Land because it is not included in Site Sharing Scenario Plan 2. The site sharing arrangements are the result of extensive discussions between our clients. The arrangements as documented in the Deed of Undertaking represent a significant compromise by Network Rail and their activities will be severely constrained and made more complex. In Scenario 2, those arrangements become even more constrained than in Scenario 1 particularly as the Circled Area will not, if Scenario 2 applies, be available.

The Deed of Undertaking enables Bellaview Properties Limited (**BPL**) to call on Scenario 1 or Scenario 2 to apply. However, Network Rail has taken the view that during the period when they will be installing the ramp and constructing the temporary RRAP, Scenario 1 is most likely to apply so that they will have access to a broader corridor of land during that period. If Scenario 2 were to apply, the narrow corridor within which Network Rail would need to work would make the manoeuvring of vehicles very materially more challenging and it would represent a significantly sub-optimal way of working. However, in order to be as collaborative as possible, and to do their best

80101108_1.DOCX

Addleshaw Goddard LLP, Milton Gate, 60 Chiswell Street, London EC1Y 4AG
Tel +44 (0)20 7606 8855 Fax +44 (0)20 7606 4390 DX 47 London
www.addleshawgoddard.com

Addleshaw Goddard LLP is a limited liability partnership registered in England and Wales (with registered number OC318149) and is authorised and regulated by the Solicitors Regulation Authority (with authorisation number 440721) and the Law Society of Scotland. A list of members is open to inspection at our registered office, Milton Gate, 60 Chiswell Street, London EC1Y 4AG. The term partner refers to any individual who is a member of any Addleshaw Goddard entity or association or an employee or consultant with equivalent standing based on their experience and/or qualifications.

to ensure that your client can implement their planning permission, Network Rail is committed to working within those constraints if absolutely necessary.

This does not mean that the extent of the Order Land should be amended further. As we note at paragraph (d) below, Network Rail is committed to working cooperatively and collaboratively with your client and is committed to adjusting the site sharing arrangements by agreement if necessary to enable the continued use of the warehouse for builder's merchant purposes and the implementation of the planning permission. However, a relationship of trust will not be fostered if, when Network Rail agrees to compromise its use of the Order Land, your client uses that as a basis for arguing that there is no compelling case in the public interest for the grant of powers over that part of the Order Land in respect of which Network Rail has agreed to restrict the exercise of compulsory powers to enable site sharing with BPL.

- c. We note that you have identified two different areas of land each numbered plot 4 on Site Sharing Scenario Plan 1 and on Site Sharing Scenario Plan 2. You note that the two areas are different and conclude that there is no scenario where Network Rail require both areas and that Network Rail is therefore seeking to acquire more land than it needs.

However, only one site sharing scenario will apply at one time and Network Rail will therefore require *either* the relevant area on Plan 1 *or* Plan 2. It is surprising that you assert this point because the site sharing arrangements result entirely from the discussions Network Rail has had with BPL. The "awkward shape" referred to within your Additional Letter is sufficient in width to park a minibus (or other LGV) and is intended for this use.

- d. We note that you have identified area numbered 4 on Site Sharing Scenario Plan 2 and circled on Figure 9 of the Additional Letter (**Second Circled Area**). The extent of that area has resulted from the extensive discussions about site sharing between Network Rail and BPL. The extent of the areas was first discussed in November 2023. You have now expressed your concern that part of the Second Circled Area overlaps with part of the footprint of BPL's proposed new development. This concern was first communicated to Network Rail on 18 January 2024, the day before we had undertaken to provide the Inspector with a deed of undertaking in respect of site sharing arrangements. Network Rail had already agreed with BPL that it would be content to swap rights over the Second Circled Area for the land shaded grey on Site Sharing Scenario Plan 3 and back again at BPL's request.

To address your newly raised concern about the overlap between the Second Circled Area and the development footprint, we have provided at paragraph 4 of the Schedule to the Deed of Undertaking that Network Rail is content to use the grey area, or such other suitable area provided by BPL, for parking purposes. We also note that BPL have not yet let building contracts for their proposed new development and it is likely that there will be further interfaces between BPL's construction works and Network Rail's works and we confirmed in our email to you on 19 January 2024 (16.52):

We further propose that our clients continue their discussions. Just as Mr Abbott has become aware of a new issue this week, as described in your letter of yesterday evening, it is likely that further issues will arise during the coming weeks and months. Indeed, once your client engages with contractors and a wider consultant team in order to implement his permission, it is inevitable that new points of detail will arise that will impact on the site sharing arrangements.

Network Rail is committed to working constructively and collaboratively with your client to ensure that the site sharing arrangements work for both parties. Accordingly, we suggest that the discussions between our clients continue beyond the close of the Inquiry. If an agreement, or revised agreement, is reached between our clients after the close of the inquiry, but before the Secretary of State's decision, there is nothing to prevent us providing it to the Secretary of State. Network Rail also anticipates that detailed issues will be able to be resolved pursuant to the liaison process that you have helpfully included in your mark-up of the deed.

- e. We note your concern regarding Network Rail's proposal to install gates and the concern that it will not be possible to gain access through the gates during railway possessions. That is correct. During a possession, the line side part of the site will become, in effect, part of the operational railway and Network Rail must have control over the area to ensure compliance with health and safety legislation. This is another reason why the Circled Area is required.

Yours faithfully

Addleshaw Goddard LLP

Addleshaw Goddard LLP

Direct line +44 (0)20 7160 3246
Email marnix.elsenaar@addleshawgoddard.com

Copy to: The Inspector, c/o The Programme Officer, joanna.vincent@gateleyhamer.com