

Brenda Taplin

From: Brenda Taplin
Sent: 07 June 2023 14:26
To: Brenda Taplin
Subject: FW: The London Borough of Haringey (High Road West Phase A) Compulsory Purchase Order 2023 ("Order")
Attachments: Representation and application under section 16 Acquisition of Land Act 1981 ("Act").doc; THE LONDON BOROUGH OF HARINGEY (HIGH ROAD WEST PHASE A) COMPULSORY PURCHASE.pdf
Importance: High

From: Tony Ridley <Tony.Ridley@networkrail.co.uk>

Sent: 07 March 2023 16:09

To: PCU <PCU@levellingup.gov.uk>

Cc: [REDACTED]

>

Subject: RE: The London Borough of Haringey (High Road West Phase A) Compulsory Purchase Order 2023 ("Order")

Importance: High

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OFFICIAL

Dear Sirs,

RE: The London Borough of Haringey (High Road West Phase A) Compulsory Purchase Order 2023 ("Order")

I write on behalf of the affected landowner, Network Rail Infrastructure Limited ("Network Rail"), to object to the Order. Attached is the Notice of the Order received by RfL dated 7 February 2023

Network Rail is the statutory undertaker for the national rail network, and the holder of the network licence from the Secretary of State for Transport under section 8 of the Railways Act 1993.

Network Rail is affected by the Order in the following ways:

- The acquisition of permanent rights against land held freehold by NRIL and subject to long leases held by Rail for London Limited ("RfL") of Plots 55, 59 and 62. It should be noted that the Schedule of Interests only refers to RfL as an occupier of Plots 55 and 59, and therefore, it is incorrect in relation to plot 62.
- According to the Order, interference with easements/covenants benefitting RfL as against Plots 57, 58 and 59.
- NRIL's sub-surface interests in Plots 28 and 54.

Network Rail's freehold title of Plots 55, 59 and 62 is subject to long leases granted to RfL dated 29 May 2015 and 23 August 2019. Additionally, Arriva Rail London Limited ("Arriva") occupies White Hart Lane station as the operator of the London Overground network and Station Facility Owner of White Hart Lane station.

As this land is held by Network Rail for the purposes of its undertaking, Network Rail is accordingly a statutory undertaker for the purposes of sections 8 and 16 of the Acquisition of Land Act 1981. A representation and

application has been made to the Secretary of State for Transport under sections 16(1) and 16(2) of that Act and a copy of that is enclosed, dated 7 March 2023.

The grounds of the objection are set out in more detail below; these will be outlined further in proofs of evidence and at inquiry, should that be necessary.

1. Safe working and appropriate asset protection provisions

The grant of the permanent rights sought and described in the Order against the affected plots would fetter the land and prevent it from being used safely for the operational railway. The access rights sought are extensive and proposed to be used in close proximity to the railway without any appropriate asset protection provisions in place. For development of this nature, an Asset Protection Agreement ("APA") would be required together with any appropriate rights of access on a temporary basis that may be required to facilitate the development; if it is possible to grant such rights given the nature of the land and the operational railway. This would be carefully controlled to ensure the protection of persons on the development as well as the protection of the railway.

The Order seeks the following rights over the operational railway land:

- access with or without vehicles;
- the use of scaffolding or temporary hoarding;
- the exclusion of other parties to the area (including RfL, Network Rail and Arriva); and
- the alteration or demolition of structures on the land.

The permanent acquisition of the extent of the rights sought is unacceptable for operational railway land, whether expressed to be exercisable on a temporary or permanent basis, and where any rights are granted then it is necessary for those rights to be appropriately controlled through asset protection arrangements, which the Order does not seek to provide. Network Rail is still analysing the rights that the Order is seeking, but at this stage, Network Rail has material concerns about maintaining operational access to the railway if the rights sought under the Order were granted aside from concerns about the protection of the railway.

2. Lack of engagement in seeking property rights

Whilst Network Rail have entered into an APA with the developer on works to the west of the railway, it was only in January that the requirement for any property rights on the east side of the railway first arose, and as such, no material discussion for any asset protection arrangements with the developer for works on the east side of the railway has taken place to date. It was further only made clear what the property requirements were when the Order was made and a copy received by Network Rail. No attempt was therefore made to negotiate the rights now sought under the Order by agreement before the Order was made. In addition, the developer has not proactively sought the rights required by agreement since the Order has been made. The Order has therefore not been made as a last resort.

3. Acquisition of a permanent right for the temporary use of land

The rights required here are effectively temporary to facilitate the development. Nevertheless, the rights sought are permanent ones granting rights over the operational railway that would be uncontrolled not just for the short term but also the long term. Temporary possession under a 'Compulsory Purchase Order' is currently not possible until the provisions in the Neighbourhood Planning Act 2017 are commenced and what is being sought through the rights here is an attempt to seek temporary possession through the acquisition of permanent rights. However, the acquisition of permanent rights to facilitate a temporary requirement is disproportionate and inappropriate, and even more so in the case of the acquisition of rights against operational railway land.

Network Rail will discuss the property requirements with both the developer and the London Borough of Haringey to understand their requirements together with securing the necessary asset protection arrangements for any rights and more generally for the development on the eastern side of the railway. However, until an agreement is in place that adequately protects the railway and the safety of the development, Network Rail will continue to object to the Order.



Regards,

Tony Ridley

Surveyor – Property Services

Network Rail Property (Anglia & Eastern Region)

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