

Subject: FW: FW: Permitted Development Works - Adjacent to Acton Main Line Station

From: Colin Field
Sent: 11 January 2023 13:31
To: Joel Holland <HollandJ@ealing.gov.uk>
Cc: David Wilson (he/him/his) <David.Wilson@networkrail.co.uk>; Aimi Blackmore <Aimi.Blackmore@networkrail.co.uk>
Subject: Permitted Development Works - Adjacent to Acton Main Line Station

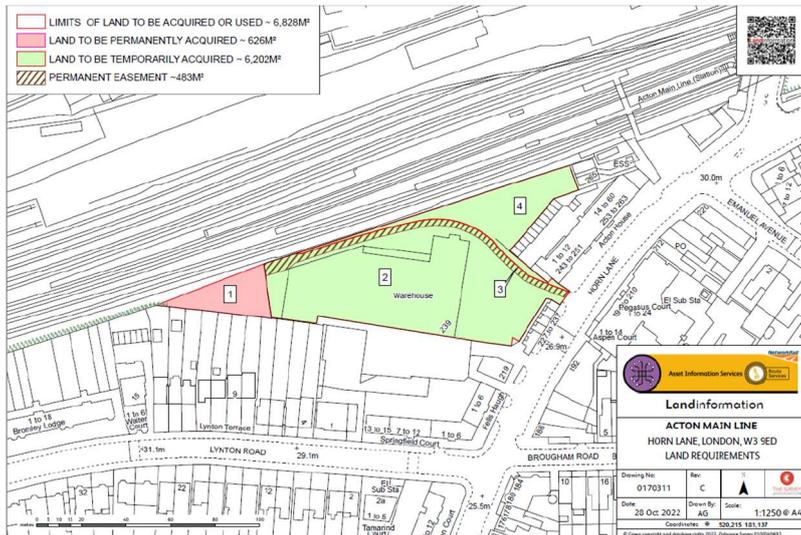
Joel,

I write further to earlier correspondence/ meetings about Network Rail’s requirement for both a permanent and temporary Road Rail Vehicle (RRV) access points from land to the south of the Great Western Mainline (GWML) close to Acton Mainline Station.

As promised I now write more formally to you as the LPA to outline the permanent works we intend to deliver under Network Rail’s permitted development rights.

Background

For context the below extract plan shows the land shaded pink which we will be using/ acquiring permanently and that land shaded green we hope to be using/ acquiring temporarily (but seeking a permanent access route for railway maintenance vehicles through the land shaded green from Horn Lane over and above existing rights). All of this land was part of the railway estate and was sold by British Rail and Railtrack.



As you know we have been trying to negotiate with the owner of the adjoining Jewson’s site to use that land and existing warehouse temporarily during the construction of the Network Rail infrastructure supporting the new HS2 Old Oak Common (OOC) station. It now seems unlikely that we are going to be able to mutually agree this in the context that they have submitted a planning application registered under your reference 225069FUL which suggests the applicant intends to occupy their completed residential led development by mid-2025 (not even mentioning NR’s temporary requirement in that application) and therefore we will be making an application to the Secretary of State for Transport for an Order under the Transport and Works Act 1992. The Order is proposed to be termed the “Network Rail OOC GWML Rail Systems Order”.

The Order will seek powers to temporarily acquire the Jewson site for a construction logistics compound as well as secure a permanent vehicular right of access through that land to the public highway. You would have seen from the recently submitted planning application 225069FUL for the redevelopment of Jewson's that the applicant clearly shows a reserved vehicular access route from their existing entrance from Horn Lane through their site and along the rear boundary adjacent to the electrified railway to facilitate access for NR vehicles (providing a gap of 7m between railway boundary and new building). As part of that application their transport statement includes at Appendix B a swept path analysis for HGV's up to 16.48m in length that can access the new permanent compound and turn around so HGV vehicles can enter and leave from Horn Lane in a forward gear.

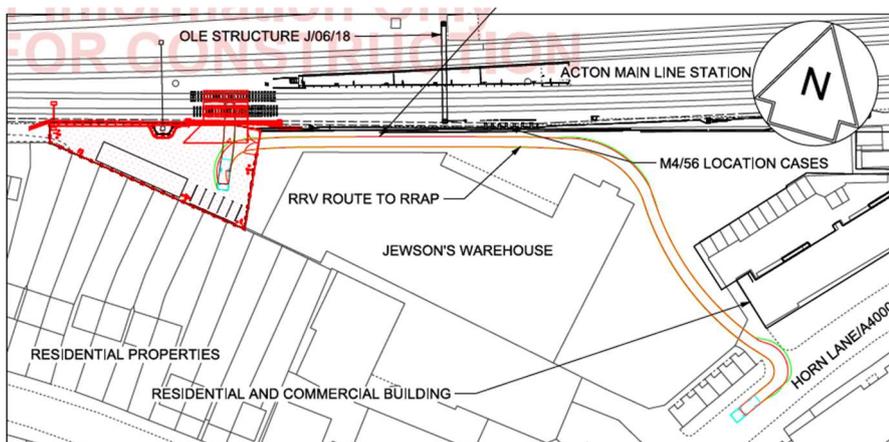
In addition to the temporary use of the Jewson's site it is Network Rail's intension to construct a permanent fenced hard standing and access point onto the railway that will be used as part of the ongoing maintenance and access regime of this busy section of the GWML. This will allow our RRV's and materials to gain access onto the railway line at a level location.

A Road Rail Vehicle (RRV) is a plant vehicle which can drive both on a road and a railway track and is used extensively in railway maintenance. I include a couple photos below of what these look like. Such equipment will be stored in the triangular yard ready to be taken onto the railway line. Such plant is normally delivered to the site on the back of a low loader HGV similar to the other photo below in advance of the need for maintenance or reactive works.



The Proposed Development

An extract from a very basic engineering drawing has been included below to show the permanent construction work in red that we propose in this triangular parcel of land measuring 626 m sq. It will be very simple in appearance with a fenced hardstanding and some lighting. There will be a gated entrance opening into the Jewson's site. The existing route for vehicles to pass through the Jewson's site onto Horn Lane will be used which currently forms part of the hard standing for the builders yard.



Permitted Development

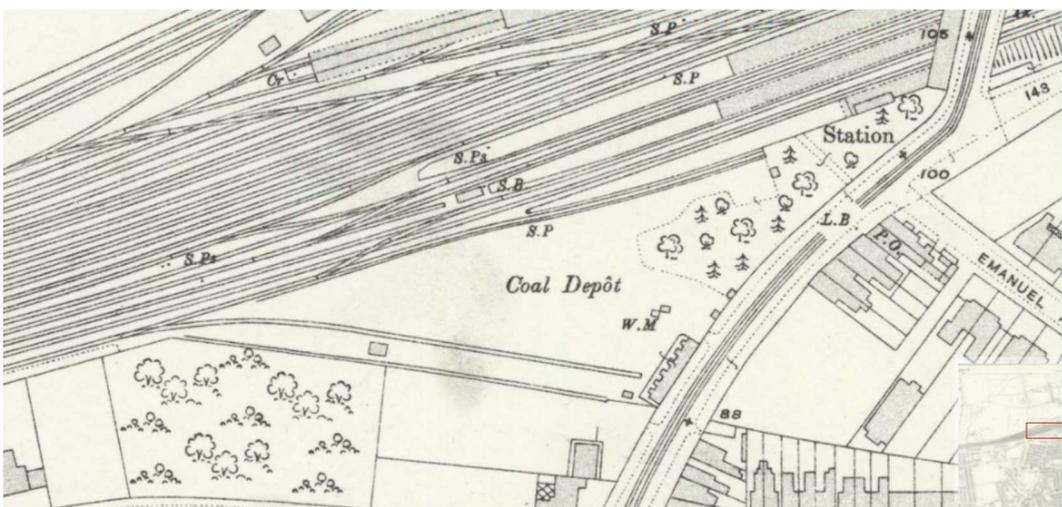
The works proposed to construct a permanent fenced yard on this triangular parcel of land to access the railway are Permitted Development under Part 18 Class A to Schedule 2 of the General Permitted Development Order 2015. All of the work we propose is on land that has been in railway ownership.

Part 18 of the GPDO is applicable to developments which were initially authorised by an Act of Parliament. All of this land had historically been in railway ownership and use until being sold in 1996 to Castle Timber and Builders Materials Ltd. We are in the legal process of getting this land back from the purchaser albeit since the land was sold by Railtrack it has never been developed or used for any other purposes and subsequently become overgrown with self seeded vegetation. Prior to it being sold it was operational lineside land to the main line and historically had railway track spur passing through it to link a railway warehouse to the south of the GWML used as a metal store and prior to the spur linking the warehouse it serviced a coal yard.

Extract below from a BR survey map of Jewson site from 1953 which our liabilities team keep which shows a warehouse described as a metal store on site (and notes state Jewson's site sold in 1984 and triangle sold in 1996). This is a scan of the old hand annotated plotting sheet that were used by the BR/ Railtrack liabilities team. It is the grey hatched triangle where we will be constructing the hardstanding.



An earlier map from 1914 shows the Jewson site as a coal depot and the triangle site as accommodating the spur off the mainline.



The GWML at this location was constructed under the authority of the Great Western Railway (GWR) Extension Act 1837. This Act is an extension of the GWR 1835 Act with the Limits of Deviation detailed in Section 78 of the 1835 Act which in this location would have been 100 yards due to the rural nature of the land in the 1830's. Further works to the south of the original lines which would have incorporated the land we have shown shaded green and pink above were acquired and authorised under the GWR (Further Powers) Act 1866, which contains the provisions of the Railway Clauses Consolidation Act of 1845 (RCCA 1845).

Section 16 of the 1845 RCCA states:

*Subject to the Provisions and Restrictions in this [Act] it shall be lawful for the Company [...] to execute any of the following works; [...] They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, **and other works and conveniences, as they think proper**; They may from time to time alter, repair, or discontinue the before-mentioned works or any of them, and substitute others in their stead; and They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway:*

Section 16 of the RCCA 1845 bestows the railway company and its successors the power to make developments necessary to the running and management of the railway; including the construction of yards, and other works and conveniences, as they think proper.

For the reasons outlined above this relatively minor development does not require an application for planning permission.

Tree Preservation Order

As you probably aware much of the railway land adjacent to the GWML has a blanket TPO (LBE TPO 749) described as "Railway Land Adjacent to the Tracks in the London Borough of Ealing" made in 2007. The Order does not refer to individual trees nor this exact site within TPO 749.

To facilitate the construction of this yard the existing low level vegetation and self-seeded trees will need to be cleared from the site before works start.

The Councils approval is not required as Network Rail (a Statutory Undertaker) are exempt from those restrictions outlined in Regulation 13 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. These exemptions are set out at Regulation 14(a) (ii) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Network Rail are however required to notify the Council that works are proposed to trees within Conservation Areas, or where Tree Preservation Orders are in effect.

Paragraph 14(ii) confirms that 'nothing in regulation 13 shall prevent the cutting down, lopping or uprooting of a tree in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance'. The works to construct this yard are being constructed under the Great Western Railway (Further Powers) Act 1866, which include the provisions set out in the 1845 RCCA.

Section 16 of the 1845 RCCA states:

*"They may from time to time alter, repair, or discontinue the before-mentioned works or any of them, and substitute others in their stead; and They may do **all other acts necessary** for making, maintaining, altering, or repairing, and using the railway"*

This Section bestows the railway company and its successors the power to undertake works necessary to the running and management of the railway, including works to trees.

With this, Network Rail is exempt from obtaining the written consent of Ealing Council for works to trees to which an order relates, and to trees within a Conservation Area (be they in Network Rails ownership or not).

Conclusion

Network Rail proposes to construct a simple fenced yard incorporating a RRV access point onto the railway which will require to removal of self-seeded trees. These works do not require planning permission and will be permitted development under Part 18 of the GPDO 2015. As Statutory Undertaker Network Rail are exempt from those restrictions outlined in Regulation 13 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Network Rail is separately progressing the temporary acquisition of the adjoining site currently occupied by Jewsons to use as a rail logistics compound through a TWAO and we hope this can be achieved whilst still working with the developer to deliver their aspirations for residential development on the site.

If you have any questions on the contents of this email please let me know but I'm sure you will agree with the contents of this letter that this fenced yard can be delivered as Permitted Development under Part 18 of the GPDO.

It would be appreciated if you could acknowledge receipt and Ealing Council save a copy of this correspondence in your planning records for this land.

Regards

Colin



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Please be aware my normal working hours are Monday to Thursday.



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