

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

**THE NETWORK RAIL (OLD OAK COMMON GREAT WESTERN MAINLINE TRACK ACCESS)
ORDER**

PROOF OF EVIDENCE – TOWN PLANNING

STATEMENT OF COLIN FIELD BA(HONS) BTP MRTPI AIEMA

13 OCTOBER 2023

1. INTRODUCTION

- 1.1 My name is Colin Field. I am employed by Network Rail Infrastructure Limited (**Network Rail**) as the Town Planning and Heritage Manager for the Wales and Western Region. I have worked with Network Rail since 2008, with 15 years of town planning experience on railway projects. Prior to working for Network Rail I have had a number of town planning posts in both the public and private sector and have mainly specialised in infrastructure projects.
- 1.2 I have a Bachelor of Arts (Honours) Degree in Town Planning and have been a Chartered Member of the Royal Town Planning Institute since 2000. I am an associate member of Institute Environmental Management and Assessment. I also successfully completed a post graduate certificate in Business Leadership at Warwick University.
- 1.3 My role involves managing a team that advises on town planning matters for all railway schemes within the Wales and Western region, including new infrastructure and stations, major redevelopment projects, together with routine maintenance/renewals and works to Network Rail's heritage estate. Major projects of note including the Modernisation of the Great Western Mainline (electrification), South West Rail Resilience Programme, Oxford Station Phase 1, W10 Gauge Clearance between Southampton and Midlands including North Oxford Passing Loop, Cardiff Area Signalling and Capacity Renewal including the extension of Cardiff Central Station amongst others, preparation of application documents and associated development applications to support the Development Consent Order for the Redditch Branch Enhancement, Oxford Station Phase 2 Transport and Work Act Order (including giving evidence at Inquiry), support to the third party MetroWest (Portishead Line) Development Consent Order, and the Department for Transport's National Station Improvement Programme and Access for All schemes.

2. INVOLVEMENT WITH THE PROJECT, SCOPE OF EVIDENCE AND STRUCTURE OF THIS STATEMENT

- 2.1 I have prepared this proof of evidence in connection with the above-named order (**the Order**), regarding delivery of development (**the Project**), which I describe in Section 3 below.
- 2.2 My involvement in the Project began in summer 2022 and I am responsible for providing town planning advice on behalf of the Wales and Western Region on the consents strategy for the Project. Prior to my involvement in the Project town planning and consent advice was provided through the Network Rail HS2 Consents Manager working for the Northwest and Central Region. However, as the Project is within Wales and Western Region whereas the majority of HS2 is in Northwest and Central I have taken over that role for this Project.
- 2.3 While the proposed Order only seeks to authorise minor Ancillary Development (as described in Section 3 below), this proof provides an explanation of the town planning situation more

generally, and has been prepared in order to demonstrate to the Inspector that there are no planning impediments to the delivery of the Project.

- 2.4 In this proof I provide evidence on all town planning matters relating to the Project, as set out below:
- a. Section 3 identifies the consenting regimes for the Project;
 - b. Section 4 provides details of the permitted development rights which are relevant to the Project;
 - c. Section 5 describes the Ancillary Development, which is proposed to be authorised by deemed planning permission under the Order, as well as planning policies for the same;
 - d. Section 6 describes the planning application submitted by Bellaview in relation to the Order Land (being plots 2, 3 and 4, as shown on the Land Plan submitted with Network Rail's application for the Order) and Network Rail's comments on it;
 - e. Section 7 summarises the response to objections which raise town planning issues;
 - f. Section 8 addresses responses to town planning related matters raised within the Statement of Matters; and
 - g. Section 9 provides a conclusion.

3. CONSENTING REGIMES FOR THE PROJECT

- 3.1 The Project is described in detail in Mr Fleming's Proof of Evidence, but in summary consists of two separate elements, as follows:
- a. A temporary Road Rail Vehicle (**RRV**) access via a Road-Rail Access Point (**RRAP**) onto the Great Western Main Line (**GWML**) to enable the delivery of the GWML Rail Systems Project (as described in the Statement of Case submitted by Network Rail, as well as Mr Fleming's Proof of Evidence) (together with a temporary works compound required in connection with that project); and
 - b. A permanent RRV access onto the GWML railway to enable reliable future maintenance to the southern side of the main railway lines.
- 3.2 On 17 April 2023 Network Rail submitted an application to the Secretary of State for Transport to make the Order required for delivery of the Project under sections 1 and 5 of the Transport and Works Act 1992.
- 3.3 The majority of the works to be carried out in relation to the Project will be carried out as permitted development under Part 18 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (**GPDO**) However, there are elements of the Project which could be considered beyond the scope of these rights. The Order is, therefore, required to authorise these elements, which are outlined below:
- a. erection and construction of temporary worksites, including lay down and storage areas and other buildings, yards, slab, cranes, plant and machinery, apparatus, fencing and other works and conveniences; and

- b. provision of temporary haul routes

(together **Ancillary Development**).

- 3.4 As a result, the Order includes a request for deemed temporary planning permission under section 90(2A) of the Town and Country Planning Act 1990 (**1990 Act**).
- 3.5 Table 1 below sets out the town planning consenting route for Project, and the role of the Order.

Consent	Works/Matters Authorised
The Order	Deemed planning permission for the temporary change of use and Ancillary Development.
Permitted Development	Construction of the permanent and temporary RRAPs, as well as any associated on-track

4. NETWORK RAIL PERMITTED DEVELOPMENT RIGHTS

- 4.1 Network Rail has extensive permitted development rights under Part 18 of Schedule 2 to the GPDO.
- 4.2 Part 18 of the GPDO permits *"development authorised by a local or private Act of Parliament"* and allows Network Rail to rely on the statutory powers set out in the relevant Railway Acts that authorise the original construction of the railway.
- 4.3 Each Railway Act is accompanied by a set of parliamentary plans showing the "limits of deviation" (**LoD**) within which works can be carried out.
- 4.4 Class A of Part 18 can also be relied on in circumstances where elements of works are located outside of Network Rail's operational boundary (i.e.: not on operational railway land), provided the proposed works are consistent with the nature of works set out in the relevant Railway Act and within the LoD. There are certain conditions under Class A.1, such as where new buildings, bridges or alterations to a means of access to a highway are proposed under Part 18 an application for prior approval is required to be submitted to the local planning authority (**LPA**).
- 4.5 The main line at this location was constructed under the authority of the Great Western Railways Extension Act 1837 (**1837 Act**). The 1837 Act is an extension of the Great Western Railways Act 1835 [**CF1**] (**1835 Act**) with the LoDs detailed in section 78 of the 1835 Act (which in this location are 100 yards due to the rural nature of the land at the relevant time).
- 4.6 Further works to the south of the original lines (incorporating the Order Land, as well as Plot 1, which are identified on the Land Plan submitted with Network Rail's application for the Order and described in Mr Sinclair's Proof of evidence) were acquired and authorised under the Great Western Railway (Further Powers) Act 1866, which contains the provisions of the Railway Clauses Consolidation Act 1845 (**1845 Act**).
- 4.7 Section 16 of the 1845 Act provides as follows:

*"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" (emphasis added).

- 4.8 Section 16 of the 1845 Act bestows on the railway company and its successors the power to undertake developments necessary to the running and management of the railway; including the construction of yards, and other works and conveniences, as they think proper.
- 4.9 As such, Network Rail is confident that any development works associated with the GWML Rail Systems Project (with the exception of any works, which are proposed to be authorised by deemed planning permission to be granted under the Order) either benefit from the permitted development rights described above, or are authorised by High Speed Rail (London – West Midlands) Act 2017 and, therefore, do not require planning permission nor prior approval.
- 4.10 Network Rail's position in relation to the construction of the permanent RRAP proposed in Plot 1 was summarised in my email to the LPA on 11 January 2023 and the LPA has not responded with any comments to suggest that it disagrees with Network Rail's position.
- 4.11 Whilst Network Rail has applied for a deemed planning permission for a temporary construction/access compound through this Order due to the association to HS2 to facilitate the OOC Station (as described in Mr Fleming's statement), had this use been entirely for the benefit of Network Rail to make alterations or enhancements to the GWML the use of the Order Land as a construction/access compound would not have required a further deemed permission and could have been delivered as Permitted Development under Part 18 of the GPDO. This was the approach that was used for all the temporary compounds provided for in the delivery of the Great Western Electrification Project (**GWEP**) for all permanent and temporary works which was delivered entirely under Part 18 of the GPDO which I was the lead for in all town planning matters. As on GWEP the land would have been returned to its former condition on completion of the works and no planning consent would have been required.
- 4.12 I therefore do not consider that there is any planning impediment to the delivery of the Project. Network Rail will be relying on a combination of Part 18 (not requiring prior approval) of the GPDO and the granting of a deemed temporary planning permission through this Order to carry out the Ancillary Development, as well as any works associated with the Project and the GWML Rail Systems Project.

Tree Preservation Order

- 4.13 Plot 1 required for the Project is subject to a blanket Tree Preservation Order (**TPO**) (LBE TPO 749) made in 2007, which affects much of the Network Rail owned land adjoining the mainline railway. In order to facilitate the construction of the permanent RRAP the existing low-level vegetation and self-seeded trees will need to be cleared from Plot 1 before works start.
- 4.14 Pursuant to the provisions of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, any removal of protected trees (such as those on Plot 1) cannot be undertaken without the approval of the LPA. However, regulation 14(ii) provides an exemption to this rule and confirms that *"nothing in regulation 12 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"*.

- 4.15 The works to construct a permanent RRAP are being constructed under the Great Western Railway (Further Powers) Act 1866, which include the provisions set out in the 1845 Act (as further described above).
- 4.16 Section 16 of the 1845 Act provides as follows:

"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".

- 4.17 Section 16 provides the railway company and its successors with the powers to undertake works necessary to the running and management of the railway, including works to trees. Network Rail is, therefore, exempt from obtaining the written consent of the LPA to trees to which the TPO relates. As such, the TPO does not constitute an impediment to the Project. However, a number of considerations, including size of Plot1 and position of the site in relation to the overhead line isolation limit (as further described in Mr Ford's and Mr Fleming's Proofs of evidence) mean that Plot 1 cannot be viable utilised for the proposed temporary RRAP.

5. APPLICATION FOR DEEMED PLANNING PERMISSION AND PLANNING CONTEXT

- 5.1 The Ancillary Development which is proposed to be authorised by deemed planning permission under section 90(2A) of the 1990 Act comprise:
- a. the erection and construction of temporary worksites, including lay down and storage areas and other buildings, yards, slab, cranes plant and machinery, apparatus, fencing and other works and conveniences; and
 - b. provision of temporary haul routes.
- 5.2 The Planning Statement submitted with Network Rail's application for the Order, as well as Network Rail's Statement of Case, include an assessment of the Ancillary Development's compliance with relevant national and local planning policy. As detailed within the Planning Statement, as well as the Statement of Case, the most relevant policies include Chapter 2 (Achieving Sustainable Development) of the NPPF which has at the heart of the Framework a presumption in favour of sustainable development and policy T1 (strategic approach to transport) of the London Plan 2021, both of which provide policy support for the Project.
- 5.3 In addition, further policy support for the Project in the London Plan is provided by Policy T3 and table 10.1 which is concerned with "Transport Capacity, Connectivity and Safeguarding". The associated table lists the various transport projects that should be safeguarded for the importance of London and beyond. Table 10.1 of the policy references HS2, but also expressly mentions the "Associated National Rail Changes", which would include the Project as it provides the supporting compound and track RRV access point to allow the changes to be made to the existing national railway infrastructure associated with the new HS2 railway station. A copy of this policy and the supporting table is included at [CF2].
- 5.4 It is my view that, as per the Planning Statement and the Statement of Case, the Ancillary Development accords with national and local planning policy.
- 5.5 At the time of the submission of this Order the proposal was to use the existing former railway warehouse building (currently used as a builders merchant) on the Order Land to accommodate office and mess facilities for Network Rail's contractors, with the outdoor space used for materials and vehicle storage. On this basis the actual development for which planning permission would have been required would not have included any temporary buildings (which

the exception of a security hut). However, following continuing negotiations with the agent of the owner of Plots 2,3 and 4, Network Rail has looked at the implementation of the Project to see if the logistics compound can operate without taking possession of the warehouse. Should the warehouse not be used, a temporary modular building would be required for site offices and staff welfare. The temporary design and siting of a modular building as being uncontentious can be controlled by the inclusion of a planning condition to be discharged by the LPA to ensure the building does not adversely the impact of any residential accommodation in the vicinity of the Order Land.

6. CONDITIONS

- 6.1 This paragraph addresses the matter identified as Item 6 in the Secretary of State's Statement of Matters dated 15 September 2023 (**Statement of Matters**): *"the conditions proposed to be attached to the deemed planning permission and their suitability"*.
- 6.2 As outlined at paragraph 8.3 of the Planning Statement submitted with this Order it has been suggested that five planning conditions should be required for inclusion on the future temporary planning permission.
- 6.3 However, having regard to matters raised by objectors to the Order, Network Rail now suggests that further planning conditions are included as pre-commencement conditions for discharge by the LPA. These additional conditions will require the submission of details of any temporary modular building (if required), a Construction Traffic Management Plan (**CTMP**) to respond to the concerns about traffic movements to and from the Order Land and a Construction Environmental Management Plan (**CEMP**) to deal with concerns about the amenity and potential disturbance to neighbouring properties.
- 6.4 As it is now possible that the existing warehouse may not be used as accommodation for delivery of the Project, Network Rail also suggests the imposition of a condition requiring that it submits, for the LPA's approval, elevation and plan details of the two-storey temporary building that would be required on the Order land for use as staff accommodation and site office, should it prove possible for Network Rail to give up possession of the warehouse.
- 6.5 Network Rail has also revisited the wording of planning condition 5 and have amended the wording to:

Condition 5: No part of the Development shall commence until the details of the reinstatement of the site have been submitted to and approved in writing by the LPA. The decommissioning plan shall cover the removal of all temporary infrastructure from the site and should show how and when the site will be returned to its current use and shall include a restoration programme. The development shall thereafter be carried out in accordance with the approved details, including any variations to the decommissioning plan as may be approved by the LPA from time to time.

Reason: To allow return of part of the application site to the owner to commence residential development of the site.

- 6.6 Network Rail's suggested wording of these additional conditions is provided below albeit it will endeavour to agree the exact wording of these conditions with the LPA in advance of the Inquiry. Network Rail has already had a meeting and exchanged emails with the LPA to discuss the final wording of the planning conditions and will endeavour to agree the final wording as soon as possible. The wording of the CEMP condition is based on the Ealing LBC standard wording condition and the CTMP replicates that used at another Network Rail project at Oxford Railway Station, also subject of a recent Order:

- a. Condition 6 – Prior to the commencement of the development, layout and elevation plan details of all proposed temporary buildings (including any windows at first floor level) and how will be made good on completion should be submitted to in writing to the LPA to demonstrate the buildings will have no amenity issues to adjoining residents.

Reason – to protect the amenities of nearby residents.

- b. Condition 7 – Prior to commencement of the development, a construction environmental management plan shall be submitted to the Council for its approval in writing. Details shall include control measures for:- - noise and vibration (according to Approved CoP BS 5228-1 and -2:2009+A1:2014), - dust (according to Supplementary Planning Guidance by the GLA (2014) for The Control of Dust and Emissions during Construction and Demolition), - lighting ('Guidance Note 01/20 For The Reduction Of Obtrusive Light' by the Institution of Lighting Professionals), - delivery locations, - hours of work and all associated activities audible beyond the site boundary), - neighbour liaison, notifications to interested parties and - public display of contact details including accessible phone numbers for persons responsible for the site works for the duration of the works. All works thereafter must be carried out in accordance with the construction environmental management plan so approved.

Reason: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the site, in accordance with Policies 7A of the Ealing Development Management DPD and Policy D14 of the London Plan.

- c. Condition 8 - A Construction Traffic Management Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of any demolition or any works. This shall identify:

- The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman;
- Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network);
- Contact details for the Site Supervisor responsible for on-site works;
- Travel initiatives for site related worker vehicles;
- Parking provision for site related worker vehicles;
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours;
- Engagement with local residents; and
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.

All works thereafter must be carried out in accordance with the construction traffic management plan so approved.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times in accordance with the agreed plan.

7. BELLAVIEW'S PLANNING APPLICATION

- 7.1 In December 2022 Bellaview, the current freehold owner of the Order Land, submitted a planning application in relation to the Order under reference 225069FUL for:

"Construction of a building ranging in height from 6 to 15 storeys, to provide builders merchants (Use Class Sui Generis) at ground floor level, and 185 self-contained residential units (Use Class C3) and associated amenity space at first floor level and above; hard and soft landscaping works; provision of car and cycle parking; works to provide means of access for both pedestrians and vehicles from Horn Lane and all other works incidental to the development (following demolition of existing builders merchants" (Planning Application).

- 7.2 A resolution to grant planning permission pursuant to the Planning Application, and subject to a legal agreement being signed, was passed on 19 July 2023. The resolution also recommends that the final decision is delegated to the Head of Development Management, following consultation with the Chair of Planning Committee to ensure that any land use planning considerations identified by the Health and Safety Executive have been adequately addressed.
- 7.3 Network Rail submitted representations to the LPA in respect of the Planning Application in their capacity both as statutory consultee and on the basis of their interest in using the Order Land for a temporary/permanent acquisition purposes. In their representation, Network Rail expressed concerns about the proposal (although not objecting outright to the principle of development) and suggested that potentially its Project and that the proposal of Bellaview could both be delivered at the same time if development was phased. In Network Rail's statutory consultee capacity, it raised concerns about noise and vibration from the existing railway operations potentially affecting future residents (this issue also being a policy requirement). These matters were dealt with by Bellaview by means of some additional noise surveys and by the LPA suggesting changes to the wording of planning conditions during the application process, and the issues were further addressed by the inclusion of some conditions in relation to future noise monitoring and mitigation prior to occupation. In response to Network Rail's concerns that they needed to temporarily occupy the Order Land, the LPA suggested a 5 year commencement timeframe, and drafted the following planning condition with a view to ensuring that the proposed development by Bellaview does not constitute an impediment to delivery of the Project:

"The developer shall not commence construction of the development (which excludes demolition, site clearance, site investigation, site remediation, and ground works) unless either:

(a) the developer has submitted to the Council for approval a phasing plan which demonstrates the phases of the development, and how the phases can be constructed to ensure that Network Rail's Old Oak Common Station works are not impeded; For the avoidance of doubt, works phased on footprint of the existing warehouse building will be assumed to provide no impediment on Network Rail's works. The phasing plan will demonstrate, in particular, how Network Rail's access to the site and turning of vehicles, storage requirements, parking requirements for RRVs and track plant, and access to the temporary RRAP will be accommodated and not impeded. Construction management measures may be included in the phasing plan to demonstrate lack of impediment to Network Rail's works. The phasing plan may include an early works phase, that may include setting out, and substructure of works; or

(b) the Secretary of State has refused to confirm the proposed Network Rail (Old Oak Common Great Western mainline Track Access Order promoted by Network Rail, in which case the requirement in (a) shall no longer apply.

If a phasing plan is submitted to the Council for approval pursuant to (a) above, the developer will observe the phasing plan throughout the construction of the development. A phasing plan submitted pursuant to (a) above need not cover all phases of the development, and more than one phasing plan can be submitted for approval. Any phases that are planned to follow the completion of Network Rail's Old Oak Common Station works need not be the subject of a phasing plan."

- 7.4 With a view to minimising its interference with the Bellaview's proposals, and looking to be as accommodating it could be, Network Rail agreed the wording of the above condition. The effect of that condition, combined with the proposed 5 years' implementation period (instead of the usual 3 years' implementation period), is that whilst the proposed residential development of the Order Land is likely to be delayed, it will not be prevented. Rather, the development will be able to proceed in full following completion of the Project and Network Rail having vacated the Order Land.
- 7.5 As part of recent discussions with the LPA about planning conditions relating to the Project, Network Rail has also written to the LPA to suggest that wording in planning conditions imposed on Bellaview's draft planning permission, (specifically, conditions relating to the provision of a CEMP), be amended before that permission is issued to take account of the potential effects of both developments (that is, both Bellaview's and Network Rail's) taking place at the same time. A copy of that email correspondence is appended to this statement **[CF3]**.
- 7.6 If part of the Order Land is retained by Bellaview (as per the arrangements now under discussion), the Bellaview would be able to commence their development within 5 years of the approval of planning permission. If agreement were reached between the parties, I see no reason why both schemes could not proceed to all parties' ultimate satisfaction. Whilst there would be some delay to the overall delivery of the residential scheme proposed, both Network Rail and Bellaview would secure their development objectives. Further, the LPA can be reassured that the housing allocation does come forward, at the same time as Network Rail delivering this essential, nationally important infrastructure.

8 IMPACT ON LOCAL BUSINESSES AND RESIDENTS

- 8.1 This paragraph addresses the matters raised at Item 3 in the Statement of Matters: *"the likely impact of the Scheme on local businesses and residents during construction and operation"*.
- 8.2 The only local business that will be directly affected by the Network Rail's Project is the existing builder's merchant which is currently operating on the Order Land (STARK, trading as Jewson's), but which is approaching the end of its lease. However, this business would need to close/relocate irrespective of the actions of Network Rail, as a result of Bellaview's proposed redevelopment of the Order Land. Further information in relation to Network Rail's negotiations with STARK is provided in Jonathan Sinclair's Proof of Evidence.
- 8.3 The Project would not impact on local residents' parking at the rear of Acton House, and the proposals only involve the site currently occupied by STARK. Further, delivery of the Project will utilise the existing vehicular access from the public highway (Horn Lane) currently used by the builder's merchant.
- 8.4 The impact of the Project on local amenities and the surrounding environment and in particular noise, light and air quality will be limited. Crucially, such impacts will be controlled by the

Construction Environment Management Plan (CEMP). As noted above, Network Rail advocates the imposition of a planning condition that requires the CEMP to be submitted to the local planning authority for its approval prior to the commencement of the Project, as further outlined above.

- 8.5 The additional HGV movements on the road network as a result of the Project will be modest, and primarily linked to possession on the GWML to support overnight weekend works on the railway (in addition to occasional overnight mid week possessions). The weekend railway possessions are expected to be every other weekend during the operation of the temporary RRAP. A comparison of the proposed HGV movements with the existing use has been explored further in the Transport Statement [CF4] and further discussion on this is provided in full in Jeremy Douch's Proof of Evidence.

9. RESPONSE TO OBJECTIONS

- 9.1 The only statutory objector to the Order who has raised objections on town planning issues is Bellaview. Those objections have been amplified by Bellaview in their Statement of Case. In this section I provide a response to the matters raised.

- 9.2 In Paragraph 25 of their objection dated 5 June 2023 Bellaview submit as follows:

"NR has singularly failed to assess, properly or at all, the planning and wider environmental effects of the use of the Property, as proposed via the draft Order and the S90 Direction. In particular, NR has failed to assess:

- a. the effect on the operation and safety of users of, and the use of the local highway network as a result of the use as proposed (temporarily and permanently) of the Property (including for access to the operational railway);*
- b. the wider amenity impact of the works on and facilitated by NR's proposed use of the Property. Notably, the works proposed include "installation of plant and machinery, apparatus and other works and conveniences" none of which have been the subject of any assessment in terms of amenity and other impacts. In the absence of even basic information the application for deemed planning permission cannot reasonably or sensibly be allowed, not least given the requirement of planning policy at all levels to assess such impacts in relation to any proposed development."*

- 9.3 As regards highways matters, Network Rail has looked at the existing use and transport movements generated by the current use of the Order Land as a builder's merchant (for both retail and trade). On the basis of such analysis, it is clear that the vehicle movements Network Rail will be introducing in connection with the temporary and permanent RRAPs are less than those currently generated. Network Rail's consultants have produced a Transport Statement which analyses this position (a copy of which is appended to this statement, as per my comments above). Network Rail also suggests that any planning permission to be granted for the Order Land pursuant to the provisions of the Order includes a planning condition which provides for a production of a CTMP and its approval by the LPA prior to the commencement of the development.

- 9.4 I note that highways issues were further addressed by Bellaview in their Statement of Case. In particular, at Paragraph 8.7 and 8.8, Bellaview assert that Network Rail's proposed operation is likely to have significant transport implications. This is addressed in Mr Douch's Proof of Evidence, which covers transport implications of the Project.

- 9.5 Bellaview have further stated in their objection that the Project is contrary to Policies T4 and T6 of the London Plan. These two policies are from the Transport Chapter of the plan and relate to permanent changes of use or permanent construction. However, as previously explained, the Project only proposes a temporary change of use for a relatively short period of time to support a nationally significant development.
- 9.6 Policy T4 is concerned with Assessing and Mitigating Transport Impacts, and Policy T6 which is about Car Parking Standards. Both of these policies relate to permanent works, whereas the transport impacts of the Project would be temporary in nature until 2030. Whilst it is appropriate to be aware of the issues raised by these policies, and any transport impacts should be assessed and mitigated, I believe that Network Rail's Transport Statement shows that its proposals will have a negligible impact on the highway network. In regard to Parking standards again any parking proposed by Network Rail as part of the Project is only of temporary nature and required to facilitate the delivery of the Project.
- 9.7 Further, whilst Bellaview refer to these two policies in the London Plan they have chosen to ignore Policy T3 and table 10.1 which is for "Transport Capacity, Connectivity and Safeguarding" and the associated table lists the various transport projects that should be safeguarded. I have addressed this matter above at paragraph 5.3.
- 9.8 In Bellaview's Statement of Case at Para 8.4 they also refer to the list of documents/ plans which they consider are the minimum requirement for an application for planning permission to be submitted to the LPA. I note, however, that Network Rail's application for deemed planning permission is not submitted to the LPA but directly to the Secretary of State to achieve the delivery of the GWML Rail Systems Project which is supported by policy T3 of the London Plan. I therefore reaffirm the comments in Network Rail's planning statement that the Ancillary Development is temporary in nature and Network Rail does not propose any permanent development that could require these various reports and plans to be submitted.
- 9.9 It is my view that the inclusion of a requirement for a CEMP and CTMP to be submitted by pre-commencement planning condition will deal adequately with these issues associated with temporary transport movements, air quality issues during the carrying out of works and potential noise disturbance during works. The Project is located next to an existing mainline railway and a railway freight yard (both already operating 24/ 7), a railway station (open and operating from early morning till late in the evening), and existing industrial activities at the businesses to the north of the railway. The activities within the Order Land will therefore be assessed and mitigated within the CEMP in the context of those existing activities and should the Order be successful a Section 61 application will be discussed with the LPA's Environmental Protection team and will be entered into if they consider appropriate.
- 9.10 In terms of visual impacts of the Project, As outlined in Paragraph 5.5 of this Proof of Evidence, I note that at the time of submission of the Order it was anticipated by Network Rail that the existing warehouse would be used by its contractors. As a result, it was unlikely that further buildings, plant etc would be required (as they were all to be installed inside of the existing warehouse and the main issue for the planning permission was the change of use with very little to be constructed and therefore there was no detail to provide or assess).
- 9.11 However, as negotiations have progressed with Bellaview, it is understood by Network Rail that Bellaview wants to retain the area currently occupied by the warehouse. This retention is, Network Rail understands, with a view to enabling Bellaview to construct the first phase of their redevelopment of the site to re-provide a new builders merchant on site (which would be the ground floor part of their redevelopment). Network Rail is keen to co-operate with Bellaview. As such, and as noted above, it agreed the imposition of a planning condition on Bellaview's draft

Planning Permission and has reviewed its requirements for the Project, in order to enable its delivery without use of the existing warehouse if possible. If Network Rail does not take possession of the warehouse however, the temporary installation of a double stacked modular building will be required on the Order Land to provide the necessary welfare facilities, office accommodation as well as storage for the materials and tools. Some materials will also need to be stored outside in the yard much in the same way as already taking place by the builders merchant trading onsite. Further details of the temporary building will be submitted by Network Rail to the local planning authority in accordance with a planning condition, which it is proposed be imposed in relation to the Project, as further outlined above

- 9.12 As regards the issue of 'disturbance' to residential amenity, Bellaview raised points in its objection which were further addressed in its Statement of Case. In particular, Bellaview has raised an issue relating to plant. The plant proposed on the Order Land will be mobile Road Rail Vehicles used to unload deliveries of materials from HGVs and then to transport those same materials for use on the railway, accessed from the proposed RRAP. This equipment and any noise generated from these vehicles will be heard in the context of the existing adjoining uses and any potential disturbance and mitigation will be controlled and mitigated through the CEMP.
- 9.13 In addition, I note that the Project constitutes only a temporary change of use whilst the Order Land is used in connection with construction activity. Thus, any impacts will be temporary, during the period of construction, rather than permanent. Network Rail would normally enter into a Section 61 Agreement under the Environmental Protection Act with the local authority in relation to such impacts, in order to ensure noise levels and associated construction activities and kept within agreed tolerances. I consider it would be appropriate to adopt a similar approach in relation to the Project, as further explained in the List of Additional Consents submitted with Network Rail's application for the order.
- 9.14 Network Rail has also suggested the imposition of a planning condition requiring the submission (and approval) of a CEMP pre-commencement of development. This will govern how the Project would be managed and how activities will be mitigated to ensure any potential disturbance to neighbours is managed properly and responsibly.
- 9.15 Other London Plan policies that Bellaview have referred to are D14 Noise from the Design Chapter and SI1 Air Quality from the Sustainable Infrastructure Chapter. These policies are aimed at permanent development and the requirement to comply with these policies for permanent works. As explained above, the development proposed by Network Rail is temporary in nature and both noise and air quality can be mitigated through the production of a CEMP to manage these potential issues through the temporary activities to support construction work on the railway accessed but not actually taking place on the Order Land. In regard to air quality assessments, this would only be required for major development proposals which this isn't due to the size and scale of Network Rail's works and in regard to noise it should avoid significant adverse noise impacts which would be unlikely. In addition, I note that the Order Land is close to existing working and operational sites such as the GWML and Acton Freight Yard where train movements particularly those linked to aggregate and freight already operate of a 24/7 basis.
- 9.16 Further, and as regards the principle of the Project, I note that in their Objection Bellaview submits as follows:

"Moreover, the works proposed on BPL's land are inconsistent with the site allocation which concerns this land within the Ealing Site Allocations DPD (Policy ACT6). BPL is in a position to deliver development on its land, including residential development, in a form consistent with development plan policy aspirations (see details of BPL's Scheme above). The effect of the draft Order, if made and implemented, would jeopardise and at best significantly delay the carrying

out of this development and thereby the significant public benefits that policy compliant development would deliver.

The deemed application for planning permission via the S90 Direction should not, and indeed cannot, be granted."

- 9.17 As I have described earlier in this proof of evidence, the deemed planning permission sought by Network Rail would not prevent the Order Land from being redeveloped for housing in accordance with the allocation, albeit the Project will delay the overall completion date. Both projects are compatible with the policy allocation, as a matter of principle.
- 9.18 A modest number of objections have also been received from the occupiers of Acton House, who raised concerns in relation to traffic and noise impacts of the Project.
- 9.19 An objection in relation to the impact of the Project on parking area of Acton House has been made but the Ancillary Development does not extend beyond the boundary and will not affect the parking spaces between Acton House and the Order Land. This is further dealt with in Mr Sinclair's Proof of Evidence.
- 9.20 As outlined in paragraph 8.5 of this Proof of Evidence, Network Rail expects traffic movements to be less than those which are currently generated as a builder's merchant and it is suggested that a Construction Traffic Management Plan is prepared as a pre-commencement planning condition. Also, in the same way Network Rail expects there will be less noise from the proposed use of the building than existing, and further that Network Rail also intends both to enter into a Section 61 Agreement with the Environment Protection Team at Ealing Council for the period of construction, whilst also committing to constrain its activities in accordance with a Construction Environment Management Plan approved by the LPA.

10. CONCLUSION

- 10.1 The proposed Order only seeks to authorise minor Ancillary Development relating to the Project, this proof has been prepared to demonstrate that Network Rail has the ability under the town planning legislation to deliver the Project and that there are no planning impediments to the works proceeding.
- 10.2 The principle of the Project is considered to be supported by the NPPF and relevant local planning policies. The Project will deliver improvements to operational railway network, its associated safety, efficiency and reliability, and support the use of sustainable transport.
- 10.3 The majority of the works required for the Project are permitted by virtue of Part 18 Schedule 2 of GPDO 2015 and I do not consider there is any planning impediment to these works proceeding.
- 10.4 The Ancillary Development which is proposed to be authorised through deemed planning permission to be granted under the Order, are of very minor nature and are considered to be in accordance with national and local planning policies. As such, I believe that deemed planning permission should be granted, and that there is no planning impediment to the delivery of the Ancillary Development.

11. WITNESS DECLARATION

- 11.1 This proof of evidence includes all facts which I regard as being relevant to the opinions that I have expressed and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion.

- 11.2 I believe that facts I have stated in this proof of evidence are true and that the opinions expressed are correct.
- 11.3 I understand my duty to the Inquiry to help with the matters within my expertise and I have complied with that duty.



.....

COLIN FIELD

Dated: 13 October 2023