

**OBJ8/07**

**TRANSPORT AND WORKS ACT 1992**

**TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004**

**THE NETWORK RAIL**

**(OLD OAK COMMON GREAT WESTERN MAINLINE TRACK ACCESS)**

**ORDER 202[...]**

**STATUTORY DECLARATION OF MICHAEL ARNOLD AARONSON**

**DEPARTMENT FOR TRANSPORT REFERENCES: TWA/21/APP/01/OBJ/8;**

**TWA/23/APP/02**

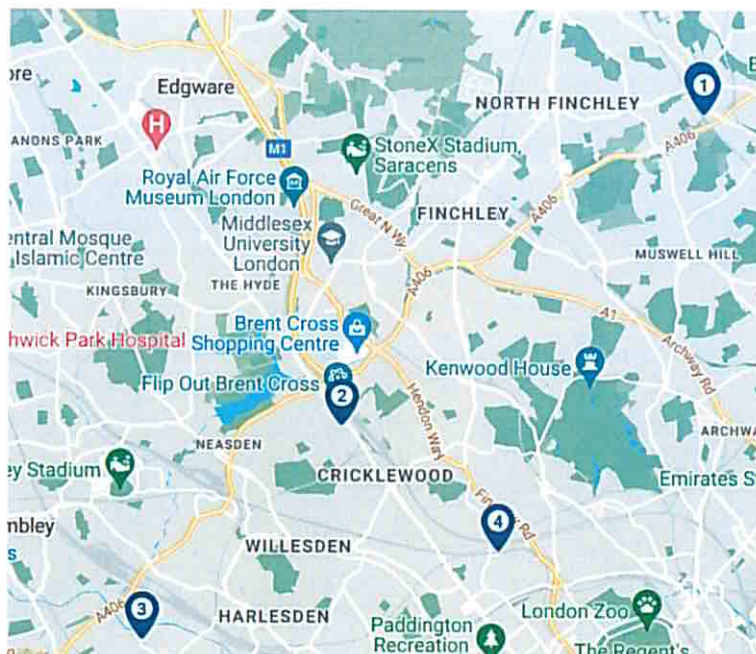
## IN THE MATTER OF THE STATUTORY DECLARATIONS ACT 1835

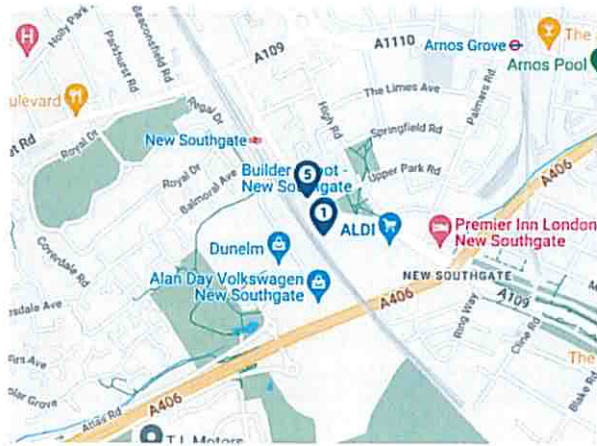
### AND IN THE MATTER OF 239 HORN LANE, LONDON W3 9ED (THE "PROPERTY")

I, Michael Arnold Aaronson of Builder Depot, 5 Station Road, Arnos Grove, New Southgate, London, N11 1QJ, **DO SOLEMNLY AND SINCERELY DECLARE** as follows:

#### 1. Introduction

- 1.1. Our family business, Builder Depot Limited (**BDL**) was started 20+ years ago. The first store we opened was in West Hampstead. This successful business has grown and expanded in the intervening years.
- 1.2. Except where I state to the contrary (in which case I give the source of information upon which I rely) I am able to state the matters in this statutory declaration from my own knowledge. Where matters are within my own knowledge these are true. Where matters are not within my own knowledge these are true to the best of my information and belief.
- 1.3. BDL is a builders' merchants selling a range of own brand as well as branded builders' tools and materials principally to the building trade. We mainly supply local builders in the areas our stores are located, although our Ecommerce division supplies wider areas. We have a very loyal customer base.
- 1.4. BDL have 4 stores at (1) New Southgate, (2) Staples Corner, (3) Park Royal, (4) West Hampstead, and (5) an Ecommerce division. (1) and (5) are co-located. All stores are located in and around London.
- 1.5. An extract below from BDL's website shows the store locations:





Source: Store Finder | Branch Finder | Builder Depot

- 1.6. The store locations are crucial to our business, these sites benefit our staff as well as our customers. At New Southgate, Crossrail 2 threatened to acquire our site compulsorily. We therefore bought the site next door in case the business needed to move into it, with Crossrail 2 having been mothballed, we have leased that site out. We purchased the site to save our business and save our employees' jobs.
- 1.7. It has always been BDL's intention to move to Horn Lane. The lease to St Gobain expires in April 2025 and we have had this date in mind for a while. Our site at West Hampstead has an implemented planning permission for a mixed use residential and office redevelopment, that also provides a new store for BDL, but it is not possible to build it out and for the business to remain operational. It has therefore been our intention to move that business to Horn Lane on a temporary basis whilst the new store at West Hampstead is developed. More recently an adjoining landowner at West Hampstead has included our store within a redevelopment proposal for a wider masterplanned site that does not include a replacement BDL store. That scheme has a resolution to grant planning permission and the planning authority has indicated that they would be prepared to exercise compulsory purchase powers to assemble the masterplan site. Whilst we are seeking a collaborative solution at West Hampstead with the adjoining landowner which retains BDL, it may well be the case that that store is compulsorily acquired. We will simply not make people redundant. Our staff are very important to us as a business and we strive to treat them very well. We have 40 employees at West Hampstead, and another 25 employed around the company who satisfy deliveries and orders at West Hampstead. We may well therefore need the Horn Lane site on a permanent basis if the West Hampstead store is forced to close, and we have to relocate our operation from West Hampstead to Horn Lane.
- 1.8. We have secured a resolution to grant planning permission for a mixed use residential led scheme at Horn Lane that includes a new store for BDL (application reference 225069/FUL) from LB Ealing. Ideally, we would demolish the existing building on site, and construct the shell of the development straight away, then furnish the new BDL unit, relocate the West Hampstead store to the new unit, redevelop the West Hampstead store, then decant that business back to West Hampstead, establish a new BDL outlet at Horn Lane, and then complete the construction of the residential units at Horn Lane. Alternatively, we may need to relocate the West Hampstead store to the new BDL unit on a permanent basis as referred to above. This plan hinges in being able to obtain vacant possession of Horn Lane in April 2025, and absolutely ensures continuity of employment for our existing staff.
- 1.9. We are a small company when compared with other big builders' merchants, such as Homebase, B&Q and Wickes. We do not have the buying powers to compete with such companies, so to remain competitive we need to retain the number of stores that we have. We need that critical



mass. We are partners with our customers and staff. We work off tiny margins, and want to make sure that our customers are able to make a living, we look after the small tradesmen, the small local builders are our main business.

- 1.10. West Hampstead was our first store, we had all previously worked together at another company, and when it was taken over we all lost our jobs and set up our own company from scratch. It has been a family business even since. I originally worked with my father, and now my sons work with me. This is the reason that it is anathema to the company that any of our staff face redundancy.
- 1.11. Our sites are owned by family company prop co's and rented to BDL. We have no leasehold sites, and are invested for the long term. Ours is a multi-generational business, both at company level, and amongst our employees. We have 3 generations of some families working for us.
- 1.12. Bellaview Properties Ltd (**BPL**) is a prop co that owns Horn Lane. BDL and BPL are separate businesses and separate legal entities. We keep the land owning entity and operational businesses separate. Horn Lane was purchased from Refuge Assurance Plc in 1997. Castle Timber & Building Materials Ltd (another BDL fascia) operated from that site, however that company was acquired, and BPL granted St Gobain Building Distribution Ltd a lease, with the intention that BDL would one day go back into that site. We have one other site in Battersea that is let on a similar basis.
- 1.13. Our property strategy can be best described as the twin purposes of firstly investing in our sites to provide BDL units that meet the requirements of customers and staff, provide a good environment, and secure the long term future of the business; and secondly to redevelop sites to provide housing for Londoners. As a company we believe we have a civic duty to respond to the housing crisis in London, and are therefore seeking to redevelop our sites to enable the continuity of our business as well as utilise our sites to provide homes for Londoners. We are invested in the communities within which we operate, and being able to provide housing is important to us. We recognise that land is a scarce resource and utilising it for a single use, with a limited number of storeys does not make the best use of land. The housing at Horn Lane and West Hampstead would be delivered in conjunction with a delivery partner.

## **2. BPL / BDL's concerns with Network Rail's proposals**

- 2.1. We have a significant concern that if Network Rail acquire the Horn Lane site for 6.5 years (or longer) that we will be unable to relocate the West Hampstead business there, either temporarily or permanently which (if the West Hampstead site was compulsorily acquired) would lead to the loss of 65 jobs and a profitable business, that would also reduce the viability of the BDL business as a whole with one less store. We (and the neighbouring masterplan landowner) have looked for an alternative site to relocate the West Hampstead business to, but no sites have been identified that would enable the retention of the current goodwill / customer base in the business. The adjoining landowner instructed agents Rapleys to undertake a site search for a relocation site, that site search report demonstrated that there were no suitable and available sites within a radius of the West Hampstead site that would allow the current business to remain trading, and any relocation would therefore effectively require the establishment of a new store. I am aware that our solicitors contacted the owners of a number of the sites identified by Rapleys to confirm if the sites were available; confirmation was received that these were not for sale e.g. a Costco warehouse, CarGiant, and sites within the TfL Property Partnerships portfolio. Other sites were part of large masterplans e.g. Brent Cross, and Meridian Waters, with build out being a number of years away, and not including planning permission for a builders' merchants use in any event. Other sites were only available for short rental periods until March 2024, or 3-5 years which would have provided no security for the business. Other sites were for unspecified leasehold periods but were located close to existing BDL branches making relocation to these sites also unsuitable. Other sites were too small for BDL's requirements. We also instructed our retained property agents to undertake a site search, they have a standing instruction to find new sites for BDL, and



are familiar with BDL's requirements. They too were unable to find any relocation options within a suitable radius of West Hampstead that would mean the current customer base and goodwill could be retained.

- 2.2. In order to mitigate its loss, BDL therefore looked to its own estate to relocate the West Hampstead business. The Horn Lane site is the only option. This too will mean the loss of goodwill and the existing customer base of the West Hampstead store, but the location is no worse than the other options considered, and has the benefit that it does not require BDL to purchase or lease another site. Without a relocation site, the jobs are lost and the business extinguished.
- 2.3. It is therefore imperative that a working solution is found that enables BDL to operate from the Horn Lane site, as noted above, ideally this would be in a new BDL store to be developed pursuant to the permission to be granted on application 225069/FUL. I am confident, based on the advice from my project managers Stace, that there is a workable solution that either allows BDL to operate from the existing warehouse on site, as well as accommodating Network Rail's construction operations; or allows the development of a new store for BDL, as well as accommodating Network Rail's construction operations.
- 2.4. I have attended two meetings on site with Network Rail's contactors Colas Rail, our project managers (Stace) and our transport consultants (Velocity) to discuss site sharing arrangements. These meetings were on 22 September and 9 October 2023. These meetings were constructive with both parties keen to find a workable solution that allowed the construction of the development to be granted on application 225069/FUL and the Network Rail project. It was agreed that there was a workable solution in principle, with phasing plans to be agreed that showed how the two projects might work together. Hand annotated phasing plans were tabled at those meetings prepared by Stace, which Colas Rail were happy with in principle. These have now been drawn in CAD and provided to Colas Rail for comment (**EXHIBIT MA1/1**).
- 2.5. In terms of allowing BDL to operate from the existing warehouse on site, should this be necessary, this was also discussed at the two site meetings referred to above. Colas Rail have produced a drawing (**EXHIBIT MA1/2**) which shows how Network Rail's project and BDL's occupation of the warehouse could be co-ordinated. This plan would work from BDL's perspective. I am advised by Stace that since Network Rail generally only require the site from 10pm on Saturdays to 10am on Sundays every other week, and since we would close any BDL store at 2pm on Saturdays, and not open on Sundays, Network Rail's contactors and BDL traffic would be unlikely to conflict. Stace advised me that it should be possible for Network Rail to bring in all their plant and materials to site within the window from Saturday 2pm to 10pm on Saturday (see Mr Gent and Mr Gallop's evidence in relation to off-site compound locations). I understand that Colas Rail themselves have accepted that they could use our site only for 'just in time' deliveries from nearby compounds. It is understood that there will also be some longer periods of possession of the site, the occasional long weekend and over bank holidays, this is unlikely to create significant conflict with BDL store opening hours but we can be flexible in our opening hours and accommodate exceptions on an occasional basis to assist Colas Rail. When BDL are not open, then Colas Rail will be free to utilise all open areas of the site.
- 2.6. Should the development pursuant to planning application 225069/FUL be delayed for any reason, then it is considered perfectly possible for Network Rail to access the triangle site (Plot 1) and use it for a permanent RRAP with the existing warehouse remaining in situ. It is understood that Network Rail have themselves considered this scenario, as shown on the extract below from Network Rail's "Construction Methodology Report" document 152270-ARC-REP-EMF-000005-P05, Fig 20, prepared by Arcadis (**EXHIBIT MA1/3**), which shows the triangle site in the "permanent stage", shows the existing "Jewson's warehouse", and partially shows a route to the rear of the warehouse accessing gates opening into the triangle site. I have circled in green where the drawing states "Jewson's warehouse":



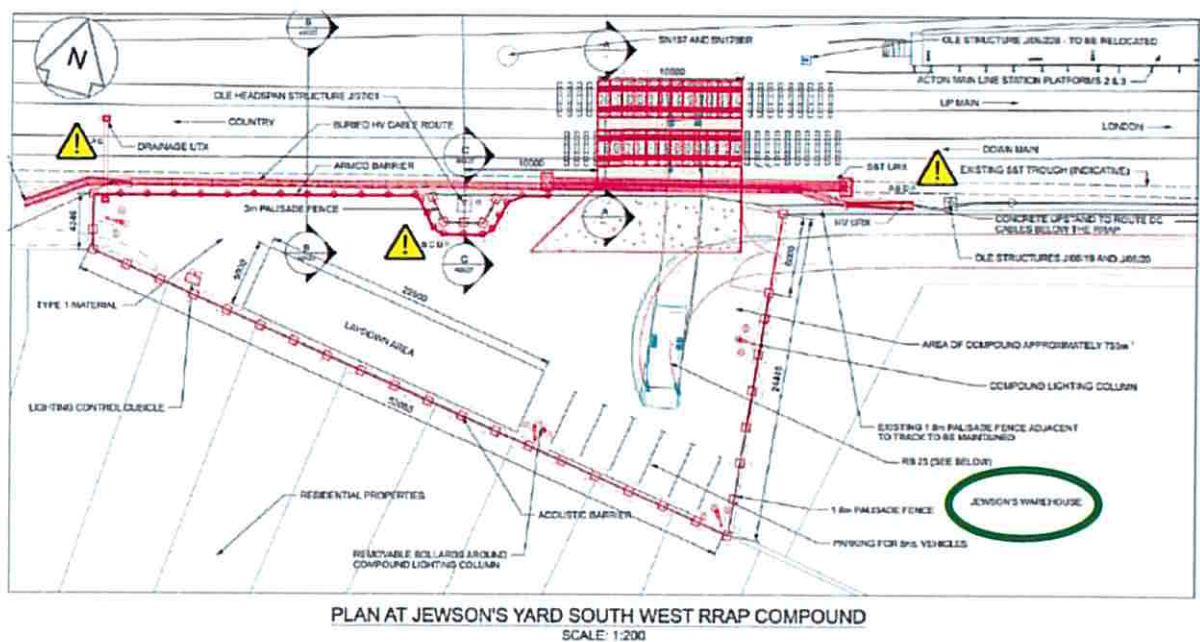


Figure 20: Permanent Stage of Jewson Acton SW RRAP

2.7. I am advised by Stace that broadly the programme would be as follows if a new BDL store was constructed:

- 2.7.1. The building would be vacated by Jewson and secured in April 2024 (assuming the St Gobain Building Distribution Ltd lease has terminated early). During 2024, and for around 9 months, the site would be secured and managed by Network Rail, during the detailed design and tender process. We may decide to demolish the existing building during 2024, if so Heras fencing will be erected around the building to form a safe working zone, and the building will be demolished from within. On completion of demolition the fencing can be removed.
- 2.7.2. Construction up to podium level, to accommodate the new BDL will begin in Q1 2025. Construction will begin at the rear of the site, with the contractor working their way out of the site. Heras fencing and scaffolding will be required to complete the construction safely, but will be removed as sections are completed. The maximum extent of the working zone is indicated on the drawings at **EXHIBIT MA1/1**, and the relocation of any fencing or hoarding will be agreed with Network Rail as the works commence. There will need to be a working agreement for the delivery of materials between Network Rail and BDL's contractor, with a shared banksman / security.
- 2.7.3. We expect the new BDL store to be complete and operational in late 2025 / early 2026, after which all hoarding around the building will be removed. If necessary, BDL can adjust the glazing line of their store to create room for customer car parking at the front end of the site, to avoid conflict with Network Rail deliveries (as is already shown on the final drawing of **EXHIBIT MA1/1**). Once operational, the new BDL store will close at 2pm on Saturdays. Therefore, it will effectively be closed for the majority of the period when Network Rail generally need the site (i.e., from Saturday evenings to Sunday mornings, once a fortnight).

2.8. It is noted that at Table 3, page 35 of Network Rail's Statement of Case that it states:

*"Network Rail have previously suggested that there could be potential for both uses to come forward at the same time with a carefully planned phased development and negotiations are ongoing in this regard."*



The reference to "both uses" is to BDL's development pursuant to application reference 225069/FUL and Network Rail's temporary proposals for the Horn Lane site. Network Rail have therefore accepted in principle that site sharing is an option, which would allow BDL's new store to be developed, and the West Hampstead business to be relocated temporarily or permanently. It would also allow the homes that Ealing and London require (including 35% affordable homes) to be delivered in a timely fashion, rather than being delayed as Network Rail suggest (see paragraph 5.38 of their Statement of Case).

- 2.9. The ground floor plan of planning application reference 225069/FUL includes a route that has been designed to meet Network Rail's requirements for access through the site to access the triangle site / Plot 1 should Network Rail acquire that site and establish a permanent RRAP there. (**EXHIBIT MA1/4**). The route is 7 metres in width and therefore exceeds Network Rail's 5 metre requirement. I am advised that the largest vehicle specified by Network Rail as potentially accessing the triangle site / Plot 1 has been tracked and can utilise the route that has been designed. It is noted that Network Rail withdrew their objection to the planning application, so it can be assumed that they are content that the proposals accommodate their future requirements. It is far from ideal having Network Rail's traffic traversing along the rear boundary of the site, which land could have been more beneficially used to provide additional residential units or commercial floorspace; the grant of a permanent easement to Network Rail also blights the site, limits future development, and fetters what can be done with the site. Network Rail need to justify why the triangle site / Plot 1 is the only site suitable for future maintenance purposes. Notwithstanding this, we are content to accommodate Network Rail's requirements in principle, and are supportive of the OOC Station project.
- 2.10. Based on the advice from my project managers Stace, and discussion with Colas Rail, I am confident that there is an equally workable solution allowing for the construction and completion of the residential part of the scheme either during the currency of Network Rail's works, or following the completion of these and consistent with any permanent right of access Network Rail may require across the site to access the triangle site / Plot 1. Fit out of the residential blocks can commence once the new BDL store becomes operational. The concrete frame for the residential part of the scheme would be constructed and cladding added (to ensure it was water-tight) at the same time as the BDL store is constructed. Fit out works would then commence starting with those units at the front/eastern side of the scheme which could also be sold first (target move-in date could be 2028). It may be more difficult to sell the units at the rear of the site and facing active Network Rail construction activity, and these would only be targeted for sale post completion of Network Rail's works at the end of December 2029. The final plan at **EXHIBIT MA1/1** would work equally for this latter fit-out phase.
- 2.11. I understand from Colas Rail that they are willing and open to working with BPL to find a workable solution around Network Rail's temporary RRAP design requirements. BPL have already shared with Network Rail a range of information, including site survey data, vehicle tracking information, and utilities information relating to the site that will assist Network Rail in their design development. BPL / BDL can provide further information as required. Similarly, as construction proceeds, BPL is open to considering reasonable amendments to its own design requirements, to enable effective site sharing, that works for both parties.
- 2.12. BDL have been working hard on heads of terms to seek to achieve agreement with Network Rail in relation to its temporary and permanent requirements for the site. These negotiations are progressing. It would be helpful if Network Rail could give seeking a negotiated solution with BPL greater attention. BPL / BDL have no issue in principle in leasing the Horn Lane site to Network Rail for the 6.5 year duration required. However, any arrangement with Network Rail must allow site sharing, so that BDL can relocate into the Horn Lane site, either into the existing warehouse unit, or into a new BDL unit in order to allow continuity of the West Hampstead jobs and business. It is understood that this should be possible, as Network Rail have themselves agreed the wording of a condition to be added to the 225069/FUL permission that allows works anywhere

within the footprint of the existing warehouse (the condition is quoted at paragraph 5.37 of Network Rail's Statement of Case), meaning that Network Rail have accepted that they can do without the existing warehouse as part of their works. Of course ancillary parking and storage is also required in connection with the relocation of the BDL business, and these are matters that have been agreed with Colas Rail (**EXHIBIT MA1/2**). BDL would be pleased to continue its discussions with Network Rail / Colas Rail to achieve sign off on the phasing plans (a negotiated solution that suits both parties).

2.13. BDL will shortly be entering into agreements for lease with BPL that cover 3 different options for the Horn Lane site. These are:

2.13.1. Assuming vacant possession in April 2025 (and assuming the TWAO is not granted) this allows BDL to take possession of the site in its current condition.

2.13.2. Assuming a lease of the site is granted to Network Rail, BPL exercise a right under that lease to site share with Network Rail, and BDL take partial possession of the site in its current condition.

2.13.3. Assuming a lease of the site is granted to Network Rail, BPL exercise a right under that lease to site share with Network Rail, and develop a new BDL store that BDL then occupy once built.

2.14. BDL's position is therefore protected in all eventualities, and BPL has a tenant ready to occupy in each scenario.

**AND I MAKE THIS SOLEMN DECLARATION** conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Signature of Declarant

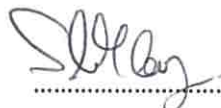
  
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Declared at

on 16/10/2023  
Saul Courts  
Solicitor  
BSG Solicitors LLP  
314 Regents Park Road  
Finchley  
London N3 2JX

Before me

Signed

  
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A commissioner for oaths or a solicitor empowered to administer oaths.