

TRANSPORT AND WORKS ACT 1992

NETWORK RAIL (OLD OAK COMMON GREAT WESTERN MAIN LINE TRACK ACCESS) ORDER

LOCAL PUBLIC INQUIRY

Inspector: Malcolm Rivett BA (Hons) MSc MRTPI

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Network Rail (by email)

19 October 2023

Dear Sir/Madam

Statutory Procedural Requirements – Consultation

1. Thank you for your speedy response to my letter of 18 October 2023 concerning the above.
2. You state that the Planning Statement and draft Order are “unhelpful” insofar as they go beyond the scope of activities actually envisaged to be undertaken by Network Rail on the Order Land because all the “works” proposed to be undertaken are in fact Permitted Development. You then go on to propose amending article 3 of the draft Order and the Request for Deemed Planning Permission so that powers are sought to:

*“(a) use the land with the Order limits as a temporary worksite, including the laying down and storage of materials, yards, slabs, cranes, machinery, apparatus and the stationing of temporary cabins; and
(b) provide temporary haul routes”*
3. However, it appears to me that the amended description of the activities for which deemed planning permission is requested would still constitute “works” under any normal and reasonable interpretation of that word, albeit that they would be of a temporary nature. Whether or not authority for “built-development” is being sought through the Order is, to my mind, irrelevant because that is not the basis on which the need to consult is determined under Schedules 5 and 6 of the 2006 Rules.

4. Furthermore, I appreciate that Ealing Council in its role as Highway Authority is aware of the draft Order. However, it is not clear to me that it was formally notified of the Order in line with Rule 14 of the 2006 Rules.
5. Please advise me as a matter of urgency if you believe I have misunderstood the situation. However, as it currently stands, I remain of the view that the Mayor of London, the relevant Fire and Rescue Authority, His Majesty's Railway Inspectorate and the Local Highway Authority should have been formally notified of the Order in line with either Rules 13 or 14 and Schedules 5 or 6 of the 2006 Rules.
6. You state that if I am not content, Network Rail will need to pursue a consultation. However, it is clear that the 42 day consultation requirement of the 2006 Rules could not be achieved prior to the proposed opening of the Inquiry on 14 November 2023. In the light of this the Secretary of State may wish to take a view on whether or not it would be appropriate for the Inquiry to proceed on this date.
7. I should therefore be grateful for your response as a matter of urgency. If on receipt of that I remain of the view that consultation has not been carried out in complete accordance with the statutory procedural requirements I shall ask colleagues in the Planning Inspectorate to seek the view of the Secretary of State as to whether or not the Inquiry should proceed as planned on 14 November 2023.

Yours faithfully,

Malcolm Rivett

INSPECTOR