

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

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

REBUTTAL EVIDENCE OF ANDREW FLEMING

1 NOVEMBER 2023

1. My name is Andrew Fleming. This rebuttal has been prepared on the same terms as my proof of October 2023 and it remains that the opinions expressed are my true and professional opinions.
2. This rebuttal proof has been prepared in response to the evidence of Christopher Alan Gent, Michael Arnold Aaronson, Mark Connell and Nicholas Gallop, submitted on behalf of Bellaview Properties Limited and to address certain matters raised in that evidence.
3. This rebuttal is not intended to be an exhaustive response on all matters and deals only with certain points where it is considered appropriate or helpful to respond in writing at this stage. Where a specific point has not been dealt with, this does not mean that the point is accepted, and it may be addressed further at the Inquiry.

Proof of Evidence of Nick Gallop

Reference	Bellaview's position	Network Rail's comments
Section 2.1 (Bullet Point 3)	RRVs based around mobile cranes or excavators (colloquially known as "JCBs" or "360 machines") will typically have a maximum speed when travelling in "rail" mode of up to 19mph (32km/h), but some lorry-based RRVs can travel up to 60mph (100km/h)	Whilst I agree with Mr Gallop's statement, I note that, as per GERT8000-HB15 Rule Book, Issue 6, certain movements are restricted to a maximum of 5 mph (10 km/h). These include movements: <ul style="list-style-type: none"> • over points • anywhere within sidings • controlled from the ground • where speed has not been given by the ES, PICOP or SWL.

		<p>Furthermore, many of the machines that are used for the GWML Rail Systems Project need to be controlled from ground level (including MEWPs), which necessitates a 5mph limit. Further, when controlled from the ground these vehicles are limited to walking pace of the machine controller, which is closer to 3mph considering the uneven ground and tripping hazards.</p> <p>Finally, due to the large volume of other works and 3rd parties working within the worksites, 5mph limits are applied for safety.</p>
Section 2.1 (Bullet Point 3)	A recent site visit with Network Rail's contractor Colas Rail confirmed the ability to provide offsite storage space, with delivery of materials and plant on a JIT [just-in-time] basis to a RRAP.	Following conversations with BPL and BDL on-site and in the interests of collaborative land-sharing, Network Rail confirmed that they could accommodate JIT, which would facilitate the release of the existing warehouse building to BPL. However, Network Rail will still require the external space as detailed in Section 5.29-5.31 of my Proof of Evidence notwithstanding adopting a JIT approach where possible, to allow sufficient space for the off-loading of materials, turning circles for vehicles and welfare facilities.
Section 2.3	<p>... as well as the scale of equipment and materials needed to carry out maintenance and renewals in a timely manner (as engineering access to the main line is necessarily limited), Network Rail is responding with new and innovative means of access, including:</p> <ul style="list-style-type: none"> • Multi-Purpose Vehicles (MPV), • High Output Plant System (HOPS) • Mobile Maintenance Trains (MMT), 	Network Rail has looked to use innovative machines and equipment where possible. Trains and other methods of reducing RRAP access requirements are already being used throughout the GWML Rail Systems Project. MPVs, HOPS and MMTs are not appropriate for the majority of works being undertaken for the GWML Rail Systems Project (for instance deep level drainage) and would struggle to be integrated with the other trains, OTP and personnel on site. While HOPS have been used for piling works on other projects, the system was found to have reliability issues and does not work with variable pile sizes due to the complex and differing structures to be installed as part of the GWML Rail Systems Project.
Section 3.5	The material supplied as part of the TWAO application does not explain in the Statement of Case or the	For clarity, the Order Land (as described in Mr Sinclair's Proof of Evidence) is only intended to be used as a compound for materials and

	<p>Statement of Aims why the logistics compound must be on the same site as the RRAP, and why the storage and associated activities could not be met at existing, larger railway operational sites in the immediate vicinity of OOC.</p>	<p>plant that need to be on-tracked from the temporary RRAP (i.e. not a 'logistics compound'). This is part of a wider logistics strategy, operating as a "hub and spoke" system. A logistics hub will be operated out of land available at North Pole Depot, from where materials will be transported to the various site access points for the GWML Rail Systems Project, including the proposed temporary RRAP. As stated earlier in this rebuttal, Network Rail can move to JIT delivery with the removal of the warehouse from the proposals. This will mean material is transported from North Pole Depot to the external compound space Order Land for on-tracking. This system minimises the requirements for land and warehouse at the Order Land. However, it does not obviate the need for a site compound at the location of the temporary RRAP.</p>
<p>Section 3.7</p>	<p>HS2 also shows a number of other locations between London and Birmingham involving full closure of Network Rail lines</p>	<p>It is correct to state that there are a number of all-line block (ALB) possessions for the HS2 programme, including at Old Oak Common. Across the programme for the OOC GWML Rail Systems Project there are 63 ALB weekend possessions (excluding Christmas blockades). Whilst works can potentially be delivered from alternative access points in these blocks, of these 63 possessions only 5 of the ALBs are greater than 8 hours in duration. This is because ALB possessions of a duration of more than 8 hours are generally unacceptable to the Train Operating Companies and their passengers due to the fact that they close the GWML from its terminus in Paddington, creating major disruption across the region. The GWML Rail Systems Project requires 76x 29hr possessions to undertake works such as deep drainage and piling that cannot be completed in shorter possessions due to their complexity. As such, it would not be possible to utilise an ALB for this type of possession due to the major impact on the GWML, therefore these need to be taken in blocks of only 2 lines (either the mains or the reliefs) limiting the access points that can be used to undertake works within those blocks.</p>

<p>Section 4.12i)</p>	<p>Drawing NR09 produced by Network Rail for the proposed temporary RRAP shows the eastern edge of the hardstanding across the rails fouling a critical part of the main line signalling system known as the Train Protection Warning System (TPWS)</p>	<p>The design of the RRAP to detailed design is still on-going, I can confirm that the latest designs do not foul the TPWS.</p> <p>This is evidenced in the attached drawing 181602-SRS-AZ03-MLN1-DRG-ECV-100001 P02.</p>
<p>Section 4.12ii)</p>	<p>Drawing NR09 also shows the northern edge of the RRAP in close proximity to Acton Main Line station platform. The RRVs will have to come onto the RRAP with the rail undercarriage retracted before turning 90° to face the direction of travel on either of the Main Lines before deploying the rail wheels. A general arrangement drawing showing a section through the temporary RRAP has been produced and is attached at Appendix R, for a typical RRV which might be expected to use the facility (other RRV designs may be longer or shorter than this). If the RRV as shown attempted to centre itself on the GWML Up Main Line nearest the island platform at Acton Main Line station in order to perform the 90° manoeuvre, the RRV would collide with the edge of the platform. Contrary to the guidance in CD34, it is therefore a concern that the drawing presented could result in RRV fouling a lineside structure ;</p>	<p>The design of the RRAP has been progressed with the platform at Acton Main Line Station in mind. The RRAP on the Up Main is staggered from that of the RRAP on the Down Main to be aligned with a narrower section of the platform to minimise the interface between them. This also allows RRVs to approach the RRAP on the Up Main from a lesser angle than the 90° suggested in the PoE of Mr. Gallop. This has been confirmed by vehicle tracking.</p> <p>This is evidenced in the attached drawing 181602-SRS-AZ03-MLN1-DRG-ECV-100001 P02.</p>
<p>Section 4.12iii)</p>	<p>4.12 Against the above considerations, the proposals for the temporary RRAP on the Horn Lane site raise a number of concerns:</p> <p>...</p> <p>iii) Cabling associated with main line signalling and high-voltage power supplies, which runs along the</p>	<p>Cables will be relocated and protected as part of the RRAP installation works. These activities already form part of the projects programme to implement the temporary and permanent RRAPs at Horn Lane.</p>

	fenceline boundary between Network Rail and the Horn Lane site ;	
Section 6.2	The need for the temporary RRAP to be co-located with material storage / assembly compounds and office space has not been evidenced, beyond a general suggestion that this would be desirable in reducing the number and duration of main line possessions required. No evidence has been provided to support this from an operational or financial perspective.	Network Rail has provisionally agreed that the existing warehouse building, which was proposed for material storage and assembly compounds need not be 'possessed' as part of the scheme. However, the requirement for external compound space to facilitate Just-in-time delivery remains.

Proof of Evidence of Mark Connell

Reference	Bellaview's position	Network Rail's comments
Section 5.12	I was not the planning consultant for the above planning application, and therefore not party to the discussions on the precise condition wording. However, on a fair reading of the text, it would seem self-evident that the developer of the residential-led scheme can undertake works on the current warehouse without impeding Network Rail's works. This suggests that the warehouse is not essential to the Network Rail project.	Following conversations with BPL and BDL on-site and in the interests of collaborative land-sharing, Network Rail confirmed that they could operate from Jewson's Yard with Bellaview retaining possession of the current warehouse, by moving to just-in-time working. However, Network Rail will still require the external space as detailed elsewhere in the Proof of Evidence, this is to allow sufficient space for the off-loading of materials, turning circles for vehicles and welfare facilities.

Proof of Evidence of Michael Arnold Aaronson

Reference	Bellaview's position	Network Rail's comments
Section 2.4	I have attended two meetings on site with Network Rail's contactors Colas Rail, our project managers (Stace) and	I note that it is agreed that Network Rail are proactively engaging with BDL and BPL in order to achieve an agreement in relation to the Order

Section 2.5	<p>our transport consultants (Velocity) to discuss site sharing arrangements. These meeting 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.</p> <p>In terms of allowing SQL 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.</p>	<p>Land (as described in Mr Sinclair's Proof of Evidence). As per Section 2.5, an agreeable proposal has been presented by Network Rail involving the footprint of the existing warehouse. Therefore, it is not agreed that the Network Rail proposal would result in any risk to the future of the BDL operations, as evidenced in the rest of Mr. Aaronson's statement, being realised.</p> <p>I would also note that Mr. Aaronson confirms that BDL would be able to operate out of the existing warehouse, as shown in his evidence MA1/2. This means there is no requirement to build the "Consented Building Footprint" (in Mr. Aaronson's Exhibit MA1/1) to ensure the ongoing BDL operations. The analysis undertaken on the proposal provided by Bellaview indicates that any proposal to construct the entirety of the consented development is not compatible with that of the temporary RRAP.</p>
	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).	It should be noted that at the time of submission of Mr. Aaronson's evidence, only PDF drawings of EXHIBIT MA1/1 were provided to Network Rail. Network Rail had requested the CAD drawings which are required for full, accurate analysis of vehicle pathing but these were only provided on 24 th October 2023. The analysis undertaken on the proposal provided by Bellaview indicates that any proposal to construct the entirety of the consented development is not compatible with that of the temporary RRAP.
Section 2.8	<p>It is noted that at Table 3, page 35 of Network Rail's Statement of Case that it states:</p> <p>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."</p>	Network Rail agreed that there <i>could</i> be potential for both uses to be realised, provided that it does not impede the Project and/or the GWML Rail Systems Project. Initial output of the analysis of Bellaview's proposal indicates that the proposed development of the land can be implemented within the existing warehouse. However, it cannot proceed to completion for ground and first floor, as requested by Bellaview, whilst the Order Land is in use to deliver the GWML Rail Systems Project.

	<p>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.</p>	<p>As per Section 2.5 of Mr. Aaronson’s evidence BDL can operate from the footprint of the existing warehouse.</p>
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Proof of Evidence of Christopher Alan Gent

Reference	Bellaview's position	Network Rail's comments
<p>Section 3.9</p>	<p>The first important point to note is that the “vital” and “key” requirements (identified to be provided by the current warehouse building and used, at least in part, to justify the original site selection) no longer form part of the requirements currently being advised to BPL and its consultants.</p>	<p>The consultation document referred to by Mr Gent stated, “The current warehouse building will be retained and used as a storage facility for vital equipment and key materials”. The use of the warehouse remains a requirement for the Project.</p> <p>Following conversations with BPL and BDL on-site and in the interests of collaborative land-sharing, Network Rail confirmed that they could accommodate JIT, which would facilitate the release of the existing warehouse building to BPL, provided that it does not impede the Project and/or the GWML Rail Systems Project. Initial output of the analysis of Bellaview's proposal indicates that the proposed development of the land can be implemented within the existing warehouse. However, it cannot proceed to completion for ground and first floor, as requested by Bellaview, whilst the Order Land is in use to deliver the GWML Rail Systems Project.</p>

		Regardless of the use of the warehouse for longer term storage, the vital equipment and key materials will still need to be delivered from the new temporary RRAP.
Section 3.10	The second important point to note is that the original consultation description in my view infers continuous use of the site “will be operational 24 hours a day”, whereas NR’s current requirement as explained to me on site is broadly “overnight, once a fortnight”, which even at 24 hours once a fortnight means the site would not be in use by NR 13/14 or 93% of the time.	<p>Access to/from the RRAP would need to be available 24 hours a day, in the instance of any on-track emergency necessitating access (for instance access for emergency vehicles and passenger evacuation or emergency access for fault teams to fix broken infrastructure preventing the passage of trains on the tracks). It is correct to say that broadly the access will only be required once a fortnight, this would be from Saturday evening to either Sunday or Monday early morning. There may be instances where the access is required for consecutive weekends, or midweek nights. Scheduled access could be communicated in advance, in line with Network Rail's planning timescales.</p> <p>While other access points will be used whenever possible, the criticality of the Order Land for certain access scenarios where other access points are unavailable means it’s requirement for the project remains.</p>
Section 4.6	BPL has committed to maintaining a minimum 5m wide right of way between the public highway on Horn Lane and the Triangle Site for the life of the development.	It should be noted that as per planning application reference 225069/FUL and the Statutory Declaration of Mt Michael Aaronson, the design provides a 7m access road for NR vehicles.
Section 4.14	I note that operative parking is still required by NR. In my experience this conflicts with the typical requirements for construction sites in London to require their operatives to travel by public transport. I understand that proposed operative arrival and departure times would coincide with standard public transport operating hours for rail and bus services, and there is no obvious reason why operatives could not use public transport instead of driving.	This is a rail construction site, predominately operating outside of standard bus and rail operating hours. In additional closure of the railway for the works could also necessitate that Acton Main Line Station is closed. Parking is also required for specialist contractors bringing equipment and tools in their vans. Minibuses will be used for bringing labour to site, reducing overall volumes of parking required.

<p>Section 4.15</p>	<p>The NR/Colas plan shows a nominal area for providing level access down to the rail level, although I note, in reality, the Best Practice Design Guide for NR Infrastructure Access Points [CD/34] requires the 0.6m level difference to be addressed with at least a 7.2m long ramp. The ramp will need to be orientated parallel to the railway tracks allowing access down to the lower level, with a ramp back up to the west to allow access to the severed portion of the site and onwards access to the Triangle Site. There is site surface water drainage run beneath the hardstanding which will need to be diverted or replaced so that surface water continues to drain away from the railway. I have produced a sketch to illustrate this arrangement, as reproduced below and contained in [Appendix J]. This engineering requirement does not appear to have been given sufficient attention at this stage, and may make it challenging if not impossible to install a RRAP in this location.</p>	<p>I note that Mr. Ford's rebuttal to Sections 3.13 and 3.14 of Mr. Gallop's evidence provides an explanation to why the Best Practice Design Guide for NR Infrastructure Access Points is not a required document which the Project needs to adhere to. I would further note that the level difference issue only exists in relation to the temporary RRAP, which is only proposed to be provided temporarily and as such does not need to meet the same requirements as a permanent RRAP for use by the maintainer and other third parties. Network Rail is aware of the level difference between the track and compound level and has produced a compliant design that incorporates this ramp. This design has been completed with the existing warehouse building, alignment with the "Consented Building Footprint" may prove more difficult, this review is ongoing.</p> <p>It should be noted that the CAD files for the new development were only provided by Bellaview on 24th October 2023. Therefore, at the time of writing, analysis with this data is still ongoing. The raw topographical data for the yard has not been provided (only heights at certain locations have been provided) which would be needed for the full analysis to be completed.</p>
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Dated: 1 November 2023

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APPENDIX

