

# TRANSPORT AND WORKS ACT 1992

## TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

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

#### NOTE RESPONDING TO BELLAVIEW'S NOTE ON UNDERTAKINGS GIVEN TO AGILITY TRAINS BY HS2

6 FEBRUARY 2024

#### 1 INTRODUCTION

- 1.1 On 17 April 2023 Network Rail Infrastructure Limited (**Network Rail**) submitted an application (**Application**) to the Secretary of State for Transport to make the Network Rail (Old Oak Common Great Western Mainline Track Access) Order (**Order**).
- 1.2 On 23 June 2023 the Secretary of State made a decision to hold an inquiry into the Application. The Inquiry was subsequently opened on 14 November 2023 and continued on the 15th, 16th, 21st and 22nd November 2023.
- 1.3 Following the Inquiry, on 5 January 2024, Addleshaw Goddard, instructed on behalf of Network Rail received a document from Bellaview Properties Limited (**BPL**) entitled 'Commentary on Network Rail's Risk Assessments' (**BPL's Commentary**).
- 1.4 BPL's Commentary provides observations in relation to the risk assessments described in the oral evidence of Mr Fleming during the Inquiry and shared with BPL on 21 November 2023 (**Risk Assessments**). We responded to some of the concerns raised within BPL's Commentary in a document entitled 'Note Responding to Bellaview's Commentary on Network Rail's Risk Assessments (Undated)' on 10 January 2024.
- 1.5 On 2 February 2024, Norton Rose Fulbright (**NRF**) instructed on behalf of BPL provided a further document entitled 'Note on Undertakings Given to Agility Trains by HS2' (**BPL's Note**) to the Inspector.
- 1.6 Network Rail welcomes BPL's Note in regard to the closures on Old Oak Common Lane. We have set out our responses to the points raised in BPL's Note in the paragraphs below.
- 1.7 This document 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. Where a specific point has not been dealt with, this does not mean that the point is accepted.

#### 2 Paragraph 2.7 – Old Oak Common Lane and Emergency Access Road Works

- 2.1 HS2 has informed NRF that drawings of the revised NPD access road were undergoing design development, and are therefore "unavailable at this stage". This is consistent with the evidence presented by Network Rail during the Inquiry that the final design solution and, by extension, the associated programme and closures of Old Oak Common Lane cannot be confirmed.
- 2.2 HS2 has informed NRF that there will be periods where vehicles cannot access the "IEP depot from Old Oak Common". This is consistent with the evidence presented by Network Rail during the Inquiry. HS2 states there may be "a small number of weeks" where vehicles cannot access, some "possibly in excess of 3-4 weeks". This indicates that these are not short periods of hours

or days which could be worked around but multiple weeks which would ensure that weekend possession activities are obstructed. Network Rail also notes that the periods of closure may change as a result of the aforementioned ongoing design process.

- 2.3 HS2 has informed NRF that "Access to the IEP depot will be via Mitre Way whilst the access from Old Oak Common Lane is being realigned". This is in line with the evidence presented by Network Rail during the Inquiry that the emergency access will be blocked.

### **3 Paragraph 2.8 – Utility Diversions**

- 3.1 HS2 has informed NRF that, with regards to the utilities programme of works, "there may be periods of time that vehicular access to the IEP depot from Old Oak Common Lane will be prevented whilst utilities are being installed" and that "these periods/durations are still being determined as the exact sequencing of utility works is being finalised". This is in line with the evidence presented by Network Rail during the Inquiry.

- 3.2 While HS2 state that closure of the IEP depot access road due to utilities diversions is "likely to be limited to days or small number of weeks" it is explained this is because "The majority of utility works and their diversion connection points within Old Oak Common Lane occur south of the IEP depot access point." It should be noted that Mr Gent stated, in his evidence, that the access for low-loaders to serve a RRAP in Hitachi Depot would be from the South, meaning the majority of closures, beyond the "days or small number of weeks" stated by HS2 would continue to impact any operation of a RRAP from within Hitachi Depot even if the access road remains open.

### **4 Paragraph 3.2 – Access from Wormwood Scrubs/Old Oak Common Lane**

- 4.1 Network Rail does not agree with the statement from NRF that "specific planned timescales" for IEP depot access road closures have been provided by HS2; not one specific closure has been provided by HS2. HS2 has indicated it expects multiple road closures of multiple weeks within wider time periods. These could prevent critical possessions for the Rail Systems project being delivered. All closures are dependent on the final solution reached in the design phase. The risk of longer closures than those being advised cannot be ruled out due to the uncertainty.

### **5 Paragraph 4.2 – Closure of the NPD emergency exit road**

- 5.1 The response from the HS2 Community Engagement Advisor on 11 January 2024 (19.56) (at Appendix 3 of BPL's note) confirms that "HS2 will work with Agility during the detailed design period to optimize the scheme design [...] in the following areas: 1) the alignment of the proposed IEP depot road off Old Oak Common Lane; 2) the solution for the proposed sewer realignment at the eastern end of the proposed HS2 station [...] 3) the solution for the proposed new sewer crossing the GWML". This does not relate to the Old Oak Common Lane utilities diversion or road lowering project which would result in the closure of Old Oak Common Lane.

### **6 Paragraph 4.4 – Closure of the NPD emergency exit road**

- 6.1 Network Rail does not agree that the information provided by HS2 points to closures of Old Oak Common Lane of "very limited periods of time" in relation to delivery of works in rail possessions. These are not possessions for a number of hours which could be worked around but multiple

week closures which would ensure multiple possession windows could be lost, putting the wider Rail Systems project delivery at risk.

**7 Paragraph 4.7 – Closure of the NPD emergency exit road**

7.1 Suitability of access from Mitre Way for the operations of Hitachi's North Pole Depot should not be conflated with the different access requirements for delivery of major rail construction projects.

**8 Conclusion**

8.1 Network Rail does not accept the conclusions drawn by NRF. Network Rail believes the information provided by HS2 is consistent with the evidence provided by Network Rail within the inquiry and reaffirms the unsuitability of Old Oak Common Lane as an access route for a RRAP.

**Addleshaw Goddard LLP**

**6 February 2024**