

## THE TRANSPORT AND WORKS ACT 1982

The Transport and Works (Application and Objections Procedure) (England and Wales) Rules 2006

Proposed Network Rail (London to Corby) (Land Acquisition, Level Crossing and Bridge Works (Order)

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STATEMENT OF CASE ON BEHALF OF  
BL MARKETING LIMITED AND WEETABIX LTD

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1. This is the Statement of Case of BL Marketing Limited and Weetabix Limited ("the Companies") objecting to the making of the above Order insofar as it affects the land interests identified in Notice Numbers 1754860/2, 1754860/4 and 1754860/9 ("the Notices").

*Land Affected*

2. The Notices relate to the following parcels of land identified in Schedule 1 to each respective notice as follows:

**Notice 1: 1754860/4**

Parcel 715 – All interests in land forming the south eastern part of the Weetabix Limited factories car park to the west of the car park entrance, east of the Midland Main Line railway, Isham

Parcel 716 – All interests in land forming the south eastern part of Weetabix Limited factories car park, south of the former station building, east of the Midland Main Line railway, Isham

Parcel 717 – All interests in land surrounding and including disused former station building located on the Weetabix Limited factories car park, east of the Midland Main Line railway, Isham.

**Notice 2: 1754860/2**

All interests in grass covered area in the south east corner of the Weetabix Limited factories car park, east of the Midland Main Line railway, Isham.

**Notice 3: 1754860/9**

Parcel 719 – Air rights over land which covers the central area of Weetabix limited factories car park and its entrance, north of Station Road, Isham

*The Companies' Interests*

3. BL Marketing is the freehold owner of all of the above mentioned parcels, and Weetabix is the occupier of the parcels pursuant to a lease dated 4<sup>th</sup> August 2001.

*Grounds of Objection*

4. Reference is made to the Companies' letter of objection dated 31 July 2018, and this Statement of Case should be read as incorporating the objections set out therein. That letter explains precisely how the land and use rights proposed to be acquired under the Order would have a severe and unacceptable impact on the ability of Weetabix to continue with its operations. Given the lack of information provided as to how the rights proposed to be acquired will be utilised, there remains the distinct probability that it will become impossible for Weetabix to access its car park, safely or at all.
5. Although the acquisition of rights in respect of parcels 715, 716, 717 and 718 are expressed to be temporary, and only temporary rights are sought to be acquired

over the airspace of the land identified in parcel 719, no information is provided as to what is meant by temporary, and neither is it clear as to whether the applicant will seek to exercise those rights for that undefined temporary period to the exclusion of the companies.

6. Given that an Order has the effect of compulsorily depriving a landowner of its property rights, there is an onus on the applicant to provide a full and clear explanation of what rights are sought to be acquired, for how long, precisely what operations will be carried out on the land and whether they have the potential to impact on the use of the retained land, and whether any and all use by the former owners over the land affected will be prohibited. The companies are particularly (but by no means exclusively) concerned that the applicant's operations on the land interests proposed to be acquired will put at risk the health and safety of those seeking to access the Weetabix car park and factory.
7. In the absence of this information the Companies reserve their right to add to this Statement of Case in due course should the provision of this information disclose further grounds of objection.
8. Without prejudice to any of the above, the Companies' primary objection is based on the fact that the making of the Orders, either at all or in the format sought, is not in the public interest. The Secretary of State has confirmed on many occasions that Orders will not be made if they are unnecessary, at all or in the form sought, because no public interest is served in making such Orders.
9. It is the companies' case that it is unnecessary to make the draft Order at all insofar as it affects the above land parcels. In this regard it will rely on correspondence from the applicant, received only within 24 hours of the deadline for submitting this Statement of Case, that it no longer needs to acquire the rights identified above. This in and of itself demonstrates that the making of the Order is not in the public interest.

10. Alternatively, and without prejudice to the above, the Companies will submit that it is not in the public interest to make the Order insofar as it affects the above parcels of land because it is possible for the applicant to carry out the works it seeks to carry out by utilising an area to the south of station road (adjacent to parcels 713 and 714). In this regard, the companies will rely on correspondence with the applicant in which it confirmed that temporary use of this alternative parcel of land and its airspace would suffice for its purposes.
11. In the further alternative, it is the Companies' case that even if the applicant needs to acquire the rights identified in the above Notices, it is not in the public interest to allow it to do so without it making sufficient and suitable provision for Weetabix to continue with its operations without practical and/or commercial hindrance. In this regard, the Companies will rely upon correspondence with the applicant, including but not limited to a draft licence agreement, which demonstrates that it is perfectly feasible, practicable and commercially sensible for the applicant to make alternative parking and access provisions for Weetabix for the duration of its works.
12. In light of the evolving nature of the applicant's plans and the terms of the Order it will eventually seek (it has already indicated in correspondence with the companies that it will propose that the draft Order be amended) the companies reserve their right to add to or alter this Statement of Case.

**Satnam Choongh**  
Number 5 Chambers

12 October 2018