

NETWORK RAIL (EAST WEST RAIL BICESTER TO BEDFORD IMPROVEMENTS)

**Proposed Transport and Works Act Order,
Request for Deemed Planning Permission
and
Applications for Listed Building Consent**

NOTE FOLLOWING THE PRE-INQUIRY MEETING

held on 29 November 2018

at the Milton Keynes Community Foundation, Milton Keynes

1 Introduction

- 1.1 The Inspector welcomed all present and introduced himself as **Martin Whitehead**. He has been appointed by the Secretary of State for Transport and the Secretary of State for Housing, Communities and Local Government to hold Inquiries into a proposed Transport and Works Act Order and related matters.
- 1.2 The Inspector also introduced **Joanna Vincent**, who has been appointed as the Programme Officer for the Inquiry. **Graham Groom**, who was also introduced at the meeting, will cover for her in her absence, which is most likely to be for the first weeks of the Inquiry.

2 Scope of Inquiry

- 2.1 The Inquiry will be into:
- the proposed Transport and Works Act Order (TWAO);
 - a request for Deemed Planning Permission (DPP) for the works that would be authorised by the Order; and
 - 3 applications for Listed Building Consent

All pursuant to, or in connection with, the proposed Network Rail (East West Rail Bicester to Bedford Improvements).

The Department for Transport (DfT) has indicated that it has received 242 letters of objection in respect of the TWAO, 11 representations (one reclassified as Obj/242) and 413 letters of support. Of these, the DfT has received Statements of Cases from 32 parties, some of them representing more than one objection, 2 of those giving representations and 2 from those offering support.

3 Purpose of the Pre-Inquiry Meeting***Purpose***

- 3.1 The meeting was to enable all concerned to discuss procedural matters relating to the Inquiry, which is due to open on 6 February 2019. This should help everyone concerned make the best use of the time between now and the Inquiry, and help the proceedings to run smoothly.
- 3.2 There was no discussion of the merits of any of the cases for or against the proposals. These will take place after the Inquiry formally opens.

Programme Officer

- 3.3 The Inspector outlined the role of the Programme Officer as a neutral officer of the Inquiry, responsible to the Inspector. The main duties, under the direction of the Inspector are:
1. keeping records of those attending the Pre-Inquiry Meeting and Inquiry;
 2. organising and keeping under review the Inquiry programme;
 3. organising practical arrangements for the Inquiry, including co-ordinating and advising on appearances;
 4. acting as a contact between participants and the Inspector;
 5. co-ordinating the receipt and distribution of documents;
 6. holding a master set of all documents, including an Inquiry Library and website (details of which are given in Appendix 2 attached) and maintaining document lists; and
 7. planning site visits.

The Programme Officer will play no part in the report beyond helping with the collation of lists of those appearing at the Inquiry and of Inquiry documents, which will be appended to it.

- 3.4 The Programme Officer's contact details are given in Appendix 2

4 Parties present and appearances at Inquiry

- 4.1 Network Rail provided details of 9 witnesses whom it intends to call at the Inquiry. It also suggested that it would provide evidence from other witnesses if required. A provisional list is included in Appendix 1. Details of those identified as representing parties, together with others who indicated at the Pre-Inquiry Meeting (PIM) that they wished to speak at the Inquiry are also appended at Appendix 1. The absence of

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any other party from the PIM will not of itself preclude their participation at the Inquiry.

- 4.2 Parties may appear at the Inquiry in person and may be represented by counsel, a solicitor or some other representative. However, when making a case, prospective participants should bear in mind that if a point is a good one, and is supported by relevant evidence, it needs to be made only once in order to carry weight. Repeating the point will not add to that weight, but will simply waste Inquiry time.
- 4.3 People who do not need or wish to speak at the Inquiry will be welcome to attend as observers. In reporting on the Order and associated matters, the Inspector will take account of all written representations as well as the evidence heard at the Inquiry.

5 Inquiry venue

- 5.1 The Inquiry is currently planned to be held at the Milton Keynes Community Foundation Conference & training Facilities, Margaret Powell House, 433c Midsummer Boulevard, Milton Keynes MK9 3BN, which is the same venue as the PIM.
- 5.2 The venue is accessible for people with disabilities. In addition to the main Inquiry room, there will be a room for the Inspector and one for the programme officer and library. Network Rail will not provide any other rooms for Inquiry use.

6 Inquiry dates and times

- 6.1 The Inquiry is proposed to open at 1000 hours on **Wednesday 6 February 2019**. It is provisionally estimated that the Inquiry will sit for 40 days over 12 weeks. There will be no sitting days on weeks commencing 4 March, 25 March and 15 April (Easter) and on Tuesday 23 April and Tuesday 7 May. However, a better idea of the length of the Inquiry will emerge once estimates of the time needed for the various stages in the Inquiry have been provided and a programme has been drafted.
- 6.2 The Inquiry will generally sit at the following times:
- Tuesday to Thursdays: 0930 hours to about 1700 hours (with breaks for lunch at around 1300 hours, and short breaks at convenient points mid-morning & afternoon);

- Fridays: 0930 hours to no later than mid-afternoon (with a shorter lunch break).

7 Main issues and areas of agreement

- 7.1 The Secretaries of State have circulated a list of matters about which they wish to be informed in the Statement of Matters. Parties should have received copies and it will be available in the Library of documents and on the website. A copy is provided in Appendix 3 to this note.
- 7.2 The Inspector asked all parties to have particular regard to this, and to address explicitly all matters identified that are relevant to them, including the scope for mitigating any harm, in the presentation of evidence. The list is not exhaustive and it does not preclude other matters from being raised if relevant. Network Rail should ensure that it responds explicitly to every objection, including those made in writing only.
- 7.3 The Inspector requested Network Rail to reach agreement with objectors on as many issues as possible, in the interests of the parties. The Inspector welcomes written confirmation, as soon as possible, of areas where agreement has been reached, and where any objections are withdrawn as a result.

8 Inquiry procedure and site visits

Inquiry procedure

- 8.1 The Inspector will broadly follow the procedure set out in the Transport & Works (Inquiries Procedure) Rules 2004. Network Rail indicated that it would take about 2 weeks to hear its witnesses giving their evidence on the project as a whole. This will give an opportunity for objectors to cross examine these witnesses on general matters.
- 8.2 An outline of the proposed basic procedure is therefore as follows:
1. The Inspector will invite Network Rail to make an opening statement, outlining its case;
 2. Those supporting and those objecting to the proposal will be able to make an opening statement, but this is not essential and can be made at the time of them giving their evidence, which is to be encouraged particularly if the evidence is not long;

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3. Network Rail will call its witnesses in turn to be examined in chief, with only questions on general matters.
 4. Each supporter will then give their evidence in turn at a particular time slot, followed by each objector, grouped into their topic, such as the Woburn Sands school crossing, or the location of the area that the objections relate to. The objector will give its opening, if not given at the start. Network Rail will recall those of its witnesses who have provided relevant evidence in respect of that particular objector and these witnesses will be open for cross-examination and re-examination. Should the objector wish to cross examine any of Network Rail's other witnesses, Network Rail could also recall those witnesses.
 5. Each objector will then present its case by calling each of its witnesses in turn to give evidence in chief, be cross examined by Network Rail and re-examined. The Inspector may put questions that he has at any stage;
 6. Each objector and supporter who has given evidence may make closing submissions, summarising their cases in light of the evidence. They may do this either at the end of their individual evidence or after completion of all the evidence;
 7. Planning Conditions and any suggested modifications to the Order will be discussed at 'round table' sessions.
 8. Closing submissions by Network Rail will be at the end of the Inquiry.
- 8.3 The Programme Officer will make a note of any restrictions on attendance by those wishing to participate in the Inquiry, in the programming of the Inquiry.

Site visits

- 8.4 The Inspector indicated that he will familiarise himself with the Order land and the surrounding area prior to the Inquiry on an unaccompanied basis. He requested a plan to enable him to do so more efficiently. He may make further visits during or after the Inquiry, including accompanied visits to relevant places such as the waste disposal site referred to at the PIM, if necessary and/or

requested during or after the Inquiry. Arrangements for such visits will be made and announced later.

- 8.5 The Inspector wishes to emphasise that all visits will be for the sole purpose of observing the sites in question. The Inspector will not hear any evidence or submissions on site. It is important that all that has to be said in evidence should be given at the Inquiry itself.

9 Nature and format of evidence

Core Documents

- 9.1 It is likely that some documents will be referred to by many parties. Many of these have already been submitted by Network Rail, including its Supplementary Environmental Information, which was submitted on 16 November and the 42 day period in the procedure rules will end on 28 December. Network Rail also indicated that it expected the DfT to generate further work on the wider economic benefits of the Order scheme, which should be published by the East West Rail Company before 25 December. This will be placed on deposit for public inspection and should be available to view on the government website. The documents concerned will be presented on the Inquiry website when available. The address of the website is given in Appendix 2.
- 9.2 Conventionally the 'common' documents are numbered as Core Documents, but the Inspector sees no need to change their numbers at this stage. It will save paper, time and expense if others wishing to refer to the same documents would simply refer to them (by document number, title and internal reference) in their evidence without the need to submit further copies. The Inspector would welcome suggestions made via the Programme Officer for any further documents that could usefully be included as such. The Programme Officer will maintain the schedule of core documents.

Proofs of evidence

- 9.3 Proofs of evidence should be succinct and to the point. In accordance with the Inquiry Procedure Rules, if the proofs are longer than 1500 words, summaries of the proofs must be submitted at the same time as the proofs themselves. Summaries should be shorter than 1500 words. Only summaries and short proofs will be read at the Inquiry,

but the full proofs will count as evidence and be open to cross-examination. If, in evidence, reference is made to any other document, which is not included in the list of core documents, a copy of that document (or the relevant extract plus the cover page), must be submitted as an appendix to the proof of evidence. Additional evidence may be given orally, though as far as possible such material would be better included in proofs, and it would be helpful if a written version of that evidence given orally is provided.

- 9.4 The Inspector urged parties to ensure that proofs of evidence and associated documents conform to the following guidelines:
- Document number on top right corner of cover page and the spine, together with a date and version number of that document;
 - Indicate on cover page the name of the party on whose behalf the evidence is given, the name of the witness and the topic(s) covered;
 - Number all pages and paragraphs consecutively;
 - Text in at least 1½ line spacing;
 - Supporting material in appendices, bound separately from the proof and also given document and page numbers;
 - Summary bound separately and given document and page numbers, or as a self-contained section in the proof.

Submission of evidence

- 9.5 Under the Inquiries Procedure Rules proofs should be exchanged at the same time. The deadline set in the Regulations for the submission of **Proofs of Evidence** is **9 January 2019**. This date should be complied with, unless good reasons are given to extend it. **Buckinghamshire County Council** has already justified an extension of time to **23 January 2019**. Natural England indicated that it may wish to delay the submission of its proofs but this does not need to be applied for until later.
- 9.6 The deadline for the submission of **Supplementary Proofs, Responses or Rebuttals**, if considered necessary, has been set at the PIM as the opening of the Inquiry, which is **6 February 2019**

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Statements of Common Ground are welcomed at any time prior to or during the Inquiry.

- 9.7 All these documents will be available on the website as soon as possible after these dates. It will be possible to base the Proof on the Statement of Case and/or add to the evidence in Supplementary Proofs, Responses or Rebuttals should any party wish to delay providing detailed evidence in case an agreement is reached.

Copies

- 9.8 The Inspector will require a copy of every Proof, Supplementary Proof, Response, Rebuttal, Appendix and Summary and other documents submitted, and a further copy of these documents will be required for the Inquiry Library. These should be sent to the Programme Officer at the address given in Appendix 2. Copies will be put on to the website as soon as possible. They are to be provided as hard copies and it would be necessary to have them also in electronic format to be added to the website.
- 9.9 The Procedure Rules specify that copies must also be sent at the same time to Network Rail, and Network Rail should send copies of its documents to any statutory objector and anyone who has served a statement of case. The Rules indicate that only 1 copy is to be sent. The parties can negotiate directly if they seek additional copies of each other's evidence.

Opening and closing submissions

- 9.10 The Procedure Rules require those making closing submissions to provide the Inspector with copies of these in writing before the close of the Inquiry. These should if possible be drafted with a view to incorporating them into the report as the case for the party concerned. However, the Inspector reserves the right to edit them and to add material drawn from evidence given orally or in documentary form. It would therefore be helpful if copies in electronic format could also be provided.
- 9.11 There is no equivalent requirement in respect of opening submissions, but it would help the Inspector if hard copies of the texts of opening submissions would be provided at the time of delivery.

Presentation of Evidence

- 9.12 The DfT has indicated that it has received 42 Statements of Case from objectors, including those who have indicated that they wish to use their letter of objection as their Statement of Case and Statements of Case that cover more than one objector. Network Rail has submitted a Statement of Case.
- 9.13 Network Rail has indicated that it will take about 2 weeks to present its evidence. It would be helpful if the objectors could provide to the Programme Officer as soon as possible an indication of how long they intend to take in giving their evidence in order for a draft programme to be provided on the website.

10 Document numbering and availability

- 10.1 As indicated above, every document should be numbered. The numbering system should be kept as simple as possible, but numbers should be prefixed with an abbreviation to indicate the party (preferably the Objector number, and not the witness) on whose behalf it is submitted, followed by a sequential number. Each party should agree their proposed approach in advance with the Programme Officer, in the interests of consistency and clarity.
- 10.2 Each party should keep an up-to-date list of their documents, providing a copy of the list to the Programme Officer at the beginning of the Inquiry with an update if necessary at the end.
- 10.3 In addition to the documents exchanged, a complete set of Inquiry documents will be available in the Inquiry Library held by the Programme Officer throughout the proceedings. Prior to the Inquiry copies will be available for inspection at the address given in Appendix 2. Most of these documents will also be available as soon as possible after their receipt on the Inquiry website, referred to above. Correspondence will be redacted prior to being put on the website.

11 Inquiry Programme

- 11.1 The Programme Officer will be contacting all parties to gain information needed to draw up a programme for the Inquiry. This will be of benefit to all concerned and aid the smooth running of the proceedings and

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efficient use of time. The Inspector urges parties to be as co-operative as possible in this process.

- 11.2 The draft Programme will be available on the website and in the Inquiry Library. It will remain in draft and be subject to change throughout the Inquiry. It is important that people appearing are available when required, and the onus will be on them to keep in touch with the progress of the Inquiry. If they are not present when required, the Inquiry may proceed without them.

12 Other Matters

- 12.1 No transcript will be made of the Inquiry, but the Inspector will make his own notes.
- 12.2 The minutes of the PIM will be sent to all those attending and will be made available on the website.

M J Whitehead

INSPECTOR

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APPENDICES**Appendix 1-Appearances**

Network Rail		Promoter/applicant for the TWAO
Rep at PIM	Tim Mould QC, instructed by Winckworth Sherwood Law	
Rep at Inq	Tim Mould QC	
Intend to call 9 witnesses listed below:		
	Witnesses to provide proofs of evidence	
1	Martyn Angus- needs case	
2	Jill Stephenson MRTPI- Planning	
3	Simon Croft, Network Rail- Engineering	
4	Phil Holland- Construction	
5	Andrew Shuttleworth- Environment	
6	Stephanie Wray- Ecology	
7	Jonathan Smith MRICS- Property	
8	Tim Colles- Traffic	
9	Lewis Atter- Economic Case	

Gladman Developments Ltd		OBJ/228, 229, 230 & 231
Rep at PIM	Richard Kimblin QC, instructed by Gladman Developments Ltd	
Rep at Inq	Richard Kimblin QC	
Witnesses not known at the present time		

Buckinghamshire County Council		OBJ/232
Rep at PIM	Ned Westaway of Counsel, instructed by Suzanne Ormsby, Buckinghamshire County Council	
Rep at Inq	Ned Westaway	
Intends to call the following 4 witnesses- Del Tester, Highways and Traffic Paul Holton, Aylesbury Vale District Council- Ecology Phil Turner, Public Rights of Way Martin Dickman, Director of Environment- Energy from Waste Plant		

O&H Q6 and O&H Q7 Limited		OBJ/156
Rep at PIM	Kathryn Jump, Shoosmiths LLP	
Rep at Inq	Not Known	
Intends to call 3 or 4 witnesses		

Western Power Distribution (East		OBJ/24
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Midlands) plc	
Rep at PIM	Neil Bromwich, Osborne Clarke LLP Arthur Jones, Western Power Distribution
Rep at Inq	Alex Booth QC
Intends to call 4 witnesses	

John and Jane Halsey and Swan Hill Homes		OBJ/113 and 144
Rep at PIM	Sam Dobney, Gateley Hamer LLP	
Rep at Inq	Sam Dobney and James Dewey, Gateley Hamer LLP	
Intend to call 4 witnesses		

Natural England		OBJ/242
Rep at PIM	Sarah Sackman of Counsel, instructed by Natural England	
Rep at Inq	Not Known	
Intends to call the following 2 witnesses- Katherine Walsh- Mammals Suzanne Crutchley- Licensing		

Highways England		REP/8
Rep at PIM	Penny Mould	
Rep at Inq	Not known	
Intends to call one witness		

Central Bedfordshire Council		OBJ/241
Rep at PIM	Jodie Colclough	
Rep at Inq	Not known	
Not known at this stage		

W and JA Hunter Partnership and Lasalle Land Nominee 1 Limited and Lasalle Nominee 2 Limited and Cloud Wing UK		OBJ/147 and 153
Rep at PIM	Raj Gupta, Town and Legal	
Rep at Inq	Gregory Jones QC	
Intend to call 2 witnesses		

Lidlington Parish Council		OBJ/215
Rep at PIM	Peter Sparks	
Rep at Inq	Reserve position	

Winslow Town Council		OBJ/109
Rep at PIM	Councillor Roger Slevin	
Rep at Inq	Reserve position	

EMJ and DM Howell and Robert and Patricia Curtis and family		OBJ/23 and OBJ/106
Rep at PIM	David Howell of Counsel	
Rep at Inq	David Howell of Counsel	
Not known witnesses		

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East West Rail Consortium		SUPP/408
Rep at PIM	Patrick O'Sullivan	
Rep at Inq	Martin Tugwell	

Milton Keynes Green Party		OBJ/212
Rep at PIM	Alan Francis	
Rep at Inq	Alan Francis	

Cycling UK		OBJ/243
Rep at PIM	Phil Ashbourn MRTPI	
Rep at Inq	Phil Ashbourn	

Railfuture		SUPP/327
Rep at PIM	Nigel Rose	
Rep at Inq	Nigel Rose	

Milton Keynes Council		
Rep at PIM	Councillor Vanessa McPake	
Rep at Inq	Councillor Vanessa McPake	

Individual Objectors/Representations		
Mark and Jennifer Blake		OBJ/15
Leonard Lean		TBC

Objectors not present at PIM		
Thames Water		OBJ/226
W Lamb Ltd		OBJ/129

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Appendix 2- Contact Details and Addresses

The Programme Officers' contact details

Telephone no: 01403 217799.

Mobile no: 07483 133975

Email address: joannavincen@personaassociates.co.uk

Address: Persona Associates Limited, 1st Floor, Bailey House, Barttelot Road, Horsham, West Sussex RH12 1DQ.

Inquiry Library and Website

The Website is at <http://bicester-bedford.persona-pi.com/>

In accordance with Rule 7 of the Transport and Works (Inquiries Procedure) Rules 2004, a copy of every document or the relevant part of any document which Network Rail intends to refer to or put in evidence, together with a copy of every Statement of Case served by every other party and of every document served with them (once received and copied by Network Rail), may be inspected free of charge at the following locations.

Locations to view documents

Bicester Library

Franklins House, Wesley Lane, Bicester OX26 6JU

Winslow Community Library

Park Road, Winslow MK18 3DL

Milton Keynes Central Library

555 Silbury Boulevard, Central Milton Keynes MK9 3HL

Bedford Central Library

Harpur Street, Bedford MK40 1PG

Aylesbury Study Centre

New County Hall, Walton Street, Aylesbury HP20 1UU

During the Public Inquiry, all documentation will also be made available to view at the Inquiry venue.

Appendix 3- Statement of Matters

This statement relates to the public inquiry to be held into the applications made by Network Rail Infrastructure Limited ("NR") for:

- (i) the above Order under the Transport and Works Act 1992 ("TWA"); and
- (ii) a direction as to deemed planning permission for the development for which provision is included in the above Order.

This statement sets out in accordance with rule 7(6) of the Transport and Works (Inquiries Procedure) Rules 2004 the matters about which the Secretary of State for Transport particularly wishes to be informed for the purposes of his consideration of these applications. The matters are as follows:

1. The aims of, and the need for, the proposed upgrade of the partially disused Bicester to Bletchley to Bedford and Aylesbury to Claydon Junction routes, together with the construction of a new station at Winslow, platforms at Bletchley and Aylesbury Vale Parkway; and platform extensions at Woburn Sands and Ridgmont Stations, known as the East West Rail Western Section Phase 2 (EWR2) ("the project").
2. The main alternatives considered by NR and the reasons for choosing the proposals comprised in this project.
3. The justification for the particular proposals in the draft TWA Order, including the anticipated transportation, environmental and socio-economic benefits of the project.
4. The extent to which proposals in the TWA Order are consistent with the National Planning Policy Framework, transport policies, local planning and environmental policies.
5. The likely impact of the exercise of the powers in the proposed TWA Order on land owners, tenants and statutory undertakers, including any adverse impact on their ability to carry on their business and undertakings effectively and safely and to comply with any statutory obligations applying to their operations during construction and operation of the scheme. Consideration under this heading should include:
 - a) the impact on roads, including the Strategic Road Network, from increased traffic and construction vehicles;
 - b) the impacts on land use, including the effects on commercial property and the effect on other planned development in the area;
 - c) the impact on Public Rights of Way and access to public amenities; and

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d) the impact from the cumulative effects of HS2

6. The likely impact of level crossing closures including the impact of closing Woburn Sands School Crossing.

7. The likely environmental impacts of constructing and operating the project.

8. The measures proposed by NR to mitigate any adverse impacts of the project including;

a) the proposed Code of Construction Practice;

b) any measures to avoid, reduce or remedy any major or significant adverse environmental impacts of the project;

c) whether, and if so, to what extent, any adverse environmental impact would still remain after the proposed mitigation; and

d) any protective provisions proposed for inclusion in the draft TWA Order or other measures to safeguard the operations of statutory undertakers.

9. The adequacy of the Environmental Statement submitted with the application for the TWA Order, together with the further environmental information provided in support of the Order, having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, and whether the statutory procedural requirements have been complied with.

10. Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the MHCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" (published on 29 October 2015, updated on 28 February 2018)

a) whether there is a compelling case in the public interest for conferring on NR powers compulsorily to acquire and use land for the purposes of the project; and

b) whether the land and rights in land for which compulsory acquisition powers are sought are required by NR in order to secure satisfactory implementation of the project.

11. NR's proposals for funding the project.

12. The conditions proposed to be attached to the deemed planning permission for the project, if given, and in particular whether those conditions satisfy the six tests referred to in Paragraph 206 of the National Policy Framework.

13. Whether the statutory procedural requirements have been complied with.

In relation to the proposed works affecting the Listed Buildings and Conservation Areas ("the works"):

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14. The extent to which the works are in accordance with the development plan for the area including any 'saved policies'.

15. The weight that should be attached to the development plan, and any emerging plans.

16. The extent to which the works would accord with the National Planning Policy Framework and in particular the desirability of sustaining or enhancing the character or appearance of the heritage assets and Conservation Areas.

17. If consent for the works is granted, the need for any conditions to ensure they are carried out in a satisfactory manner.

18. Any other relevant matters which may be raised at the inquiry

Notes

It should be noted that whilst the above matters appear to the Secretary of State, from the evidence so far available, to be the principal ones that need to be addressed. This statement does not preclude the inquiry Inspector from hearing evidence on any other matters that he may consider relevant to the consideration of the application. In addition this statement does not pre-determine the order in which issues are to be addressed at the inquiry, nor does it imply any order of importance.