

# The Network Rail (East West Rail Bicester to Bedford Improvements) Order

Transport and Works Act 1992

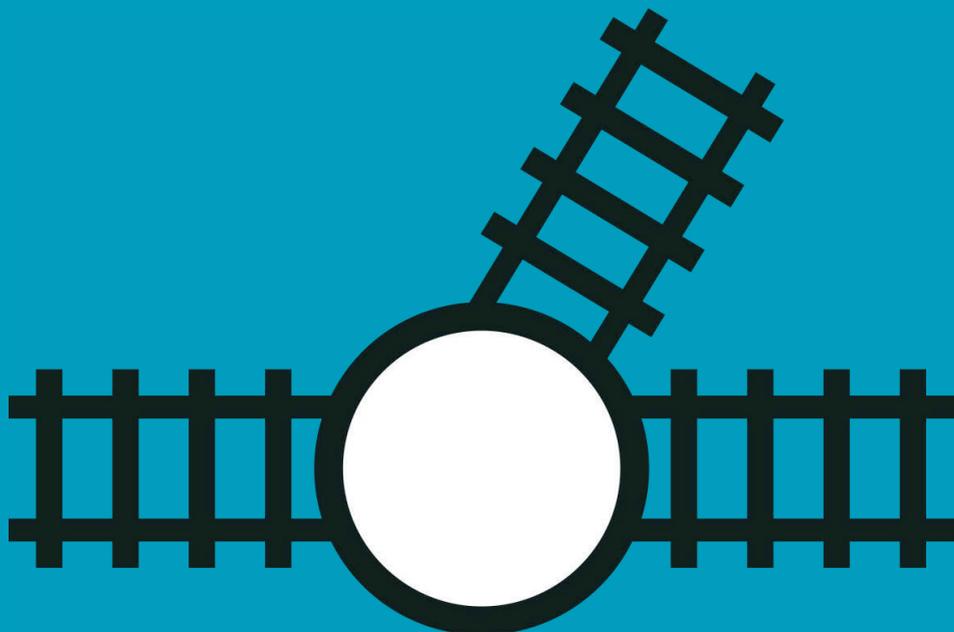
The Transport and Works  
(Inquiries Procedure) Rules 2004

Summary of

Proof of Evidence of Jonathan Smith

Property

NR131



# 1 Introduction

- 1.1.1 My full name is Jonathan Smith. I am a partner at Bruton Knowles, a firm of chartered surveyors with the head office at Olympus House, Quedgeley, Gloucester GL2 4NF.
- 1.1.2 I am a member of The Royal Institution of Chartered Surveyors (RICS) having qualified in 1996 and a Fellow of the Central Association of Agricultural Valuers. I attended the Rural Estate Management course at the Royal Agricultural University.
- 1.1.3 I have worked for Bruton Knowles since 1998 and in the last 13 years I have worked predominantly within the field of compulsory purchase and compensation.
- 1.1.4 In 2016 Bruton Knowles was awarded a commission to undertake property support services in respect of East West Rail Phase 2 project (EWR2).

# 2 Scope of Evidence

- 2.1.1 My Proof of Evidence will address the property impacts of Phase 2 of the East West Rail Western Section (the Order Scheme) and will cover the matters set out below:
  - 2.1.1.1 A description of the purpose of the draft Order (NR02) and consideration of the rights and powers that are sought by Network Rail in the Order to facilitate the Scheme and the approach to acquiring the necessary rights.
  - 2.1.1.2 A review of the scope for those private landowners affected by the Order Scheme to claim compensation as a result of the Order Scheme.
  - 2.1.1.3 A brief description of engagement with landowners during the period prior to and since publication of the Order Scheme and response to objections made by landowners on an individual basis.

# 3 Evidence Summary

- 3.1.1 Network Rail is seeking powers to construct, operate and maintain a railway between Bicester and Bedford and Milton Keynes and Aylesbury. To facilitate the project, third party land and rights in land are required.
- 3.1.2 Following the submission of the application for the Order a number of objections and representations were made by affected parties. Following discussion, agreement has been reached and objections withdrawn in a number of cases.
- 3.1.3 Discussions are ongoing with objectors, and it is hoped further objections will be withdrawn prior to the Public Inquiry. Each objection is dealt with on an individual basis from a property perspective in my detailed Proof of Evidence.

# 4 The Scope of Land Acquisition

- 4.1.1 The Order, if approved, will grant Network Rail the powers to permanently acquire the land, or rights over land, needed to construct, operate and maintain the Order Scheme. In addition, Network Rail seeks

powers to take temporary possession of specified areas of land to use for the purpose of construction of the works and from time to time during a maintenance period.

- 4.1.2 The extent of the land to be compulsorily acquired or used has been determined by the design and construction requirements for all elements of the Scheme including the new railway works, together with ancillary works such as utility diversions, flood mitigation and environmental mitigation.
- 4.1.3 Land within the Order limits may be acquired or used by Network Rail for the Scheme for several different purposes, including: Temporary rights over land; Temporary occupation and use of land; Permanent acquisition of rights over land; and Permanent acquisition of land.
- 4.1.4 Network Rail are seeking to acquire the necessary land and rights through negotiation with the relevant landowners and compulsory powers will only be used where reaching agreement appears not to be possible or practical where the owner is unknown.
- 4.1.5 Permanent freehold acquisition of land is required for those areas not in the ownership of Network Rail which will be needed for the Order Scheme.
- 4.1.6 Throughout the Scheme Order and associated scheme plans, Network Rail has used the application of limits of deviation in relation to the scheduled works to allow for appropriate deviation in the final scheme.
- 4.1.7 I have considered the compulsory powers sought by Network Rail and have compared them to the engineering requirements as far as I am able technically to do. I am satisfied that the powers of compulsory acquisition to be conferred by the Order Scheme are necessary for Network Rail to deliver the Order Scheme.

## 5 Network Rail's Approach to Land Acquisition

- 5.1.1 Network Rail, acting in accordance with the Department for Communities and Local Government (DCLG) Guidance and taking account of the Order Scheme requirements, has sought to minimise the land and rights to be acquired or used to the extent necessary for the construction and operation of the Order Scheme.
- 5.1.2 Following the confirmation of the initial design Network Rail sought to engage with relevant stakeholders to understand more fully the issues that landowners and other interested parties have.
- 5.1.3 Network Rail considers it important to minimise the land required in the Order Scheme as much as possible, but the nature of the Order Scheme necessitates the acquisition of land and rights that are not in Network Rail's control.
- 5.1.4 From reviewing the objections, it is clear that a number of objections from land promoters and developers follow a similar theme in that they are looking to Network Rail to take the opportunity to make additional alterations to various structures in order to accommodate increased traffic requirements following the consenting and implementation of their own schemes. Evidence provided by Simon Croft (NR51) explains why the current Order Scheme does not currently take into account these potential future requirements.
- 5.1.5 I understand that Network Rail is keen to understand those future requirements and has made undertakings to accommodate the developer's requirements if the consents come on-stream in a timescale that would coincide with the Order Scheme.

- 5.1.6 Such changes to the structures are likely to require more land take than is currently in the Order Scheme and this would be subject to agreement.
- 5.1.7 To deliver the Order Scheme Network Rail is required to acquire land for ecological and environmental mitigation. Network Rail has a policy, wherever possible, to enter into agreements to hand this land back to the landowners.
- 5.1.8 Although compulsory purchase powers are required to facilitate the Order Scheme, many of the affected parties have been contacted by Network Rail with a view to seeking a negotiated agreement for the acquisition of their land or rights. Network Rail will continue to undertake such negotiations but it would be unrealistic and impracticable to rely on securing all the rights and land needed by agreement.

## 6 Communication & Engagement

- 6.1.1 As part of the development of the Scheme, Network Rail and its Consultants undertook consultation events to gauge opinion regarding the Order Scheme and to invite views on the proposals.
- 6.1.2 I have had individual meetings with a number of the landowners and occupiers and where I have not undertaken discussions personally with landowners I have been kept fully informed by Network Rail, consultants, contractors and other Bruton Knowles staff. However, I have not been involved with the formal consultation described in the consultation report and I do not intend to deal with this aspect in my Evidence.

## 7 Compulsory Purchase and The Compensation Code

- 7.1.1 The powers sought within the Order will enable Network Rail, upon the service of appropriate Notices, to enter on and take possession of the numbered land plots to carry out the works required to construct and operate the Order Scheme.
- 7.1.2 Throughout the process Network Rail will continue to seek agreement with land owners in preference to and in advance of the exercise of compulsory purchase powers in accordance with DCLG Guidance.
- 7.1.3 Article 23 of the Order applies Part 1 of the Compulsory Purchase Act 1965 which, through its application, has the effect of requiring Network Rail to pay compensation to qualifying parties whose land is permanently acquired under what is known as the compensation code.
- 7.1.4 In summary, the code provides for the payment of compensation representing the value of the interest taken, diminution in value due to severance or injurious affection and disturbance losses where they can be proven.
- 7.1.5 In the case of land which is used temporarily, compensation will be payable for any loss or damage that arises because of the temporary possession.
- 7.1.6 If the parties cannot agree the amount of any compensation to be paid the dispute will be referred to the Lands Chamber of the Upper Tribunal.

## **8 Landowners affected by the use of Compulsory Rights**

- 8.1.1 Network Rail and its contractors and consultants have had discussions with a number of property interest holders prior to the application for the Order being made and their views were considered in the development of the Order.
- 8.1.2 Network Rail will continue, where possible, to engage with affected landowners, to ascertain if their concerns can be overcome and will continue to engage with them during the detailed design stage, if the Order is made.
- 8.1.3 A number of other objections to the Scheme have been received by objectors who do not have a legal interest in land affected by the Scheme and therefore I do not consider those objections in my evidence.

## **9 Objectors**

- 9.1.1 I summarise and comment upon objections on an objection by objection basis in section 9 of my detailed proof.