



TWA/17/APP/05/OBJ/154

PROOF OF EVIDENCE & SUMMARY

**In relation to Dealings with Network Rail regarding
Transport & Works Act Order for the
Proposed East West Rail Bicester to Bedford Improvements**

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1.0 SUMMARY

- 1.1 The general principles of the East West Rail Project (EWR) outlined in the TWAO are supported and the benefits to the delivery of economic growth along the corridor is recognised.
- 1.2 The land to be acquired under compulsion from Fox Land & Property Ltd (FLP) for the Woodley's Bridge Crossing whilst currently used for equestrian paddocks is within an area identified for development known as South East Milton Keynes Urban Extension (SEMK) (Appendix 1); more particularly described in PlanMK as Policy SD13.
- 1.3 FLP objections have been in relation to three matters:
 - 1.3.1 FLP objected at each of the consultation stages for the EWR Project. FLP advised Network Rail (NR) the likelihood that the land along this section of the route would provide a vital role for the expansion of the City. As such the infrastructure proposed should consider the future possibility of SEMK development coming forward. The EWR Scheme did not. No detailed engagement on these matters occurred prior to the TWAO been issued.
 - 1.3.2 In accordance with the MHCLG Guidance on Compulsory Purchase there should have been parallel discussions to acquire the land required for the Woodley's Bridge Crossing. There had been no detailed engagement on these matters to acquire by agreement prior to the TWAO or indeed since the Order was made.
 - 1.3.3 Opportunities available to NR with the emergence of SEMK regarding reasonable alternatives to reduce the inherent risk in footpath or equestrian crossings (FP008 and BW0014) with the increase in rail services were not fully considered.
- 1.4 Since the issue of NR Statement of Case (SoC) preliminary discussions are now taking place with MKC and the Promoters of SEMK in the context of PlanMK. The Local Plan is due to be adopted during the TWAO Inquiry at which point Policy SD13 would be confirmed.

- 1.5 A common ground statement is being prepared which could lead to the withdrawal of the objections. Within the undertaking the agreement needs to include matters of delivery timing, the specification of the Woodley's Farm Bridge or any alternative bridge crossing, the treatment of the existing PRoW's over the railway and the compulsory acquisition of the land.

2.0 INTRODUCTION

- 2.1 My name is Ivor James Beamon. I have a degree BSc (Hons) Surveying & Mapping Sciences. I am a Member of the Royal Institution of Chartered Surveyors. I have been employed as a Project Director for Fox Land & Property Ltd since 2008 being a land holding subsidiary of Gladman Developments Ltd.
- 2.2 I have over 30 years' experience of delivering and project managing major sustainable urban extensions. This process includes dealing with the initial land assembly through to collaborative working with other developers and public bodies, providing the support and decision making for planning applications with the associated design and development proposals for implementation.
- 2.3 I have been dealing with matters in respect to the promotion of land north of Woburn Sands Road, Bow Brickhill and South of the Bletchley to Bedford Railway since 2008 and continue to do so through the Allocation of the site within the emerging PlanMK as a major land holding of Policy Area SD13.
- 2.4 The evidence which I have prepared in respect to the Transport Works Act 1992 Application for the Proposed Network Rail (East West Rail Bicester to Bedford) Order **(TWAO)** has been prepared and is given in accordance with guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

3.0 **CONTEXT**

- 3.1 Fox Land & Property Ltd (FLP) along with our holding Company Gladman Developments Ltd (GDL) and Gallagher Estates Ltd have land interests to the North of Woburn Sands Road and to the South of the Bletchley to Bedford Railway. Since 2008 the site has been actively promoted for future development. In the context of the TWAO this development is within Route Section 2D of the EWR Project.
- 3.2 The Site is now included as the major allocation for PlanMK commonly referred to as South-East Milton Keynes urban extension (SEMK). The Policy within the Plan is referred to as SD13. The land included is identified in Appendix 1. In collaboration with O&H Properties¹ and Swan Hill Homes² who have also previously objected on similar matters FLP (Gladman) and Gallagher Estates (The Promoters) are cooperating to bring SEMK forward in accordance with the Policy both north and south of the rail line.
- 3.3 Details of the potential for development in this location and the support such an urban extension would provide the East West Rail (EWR) Project has been in the public domain since the adoption of the current MK Development Plan in 2013. It is self-evident that a housing allocation in this location to provide approximately 3,000 homes is highly beneficial to the success of the EWR Project put forward by Network Rail (NR).
- 3.4 FLP do not object to the proposed infrastructure within the EWR Project that requires FLP land to construct the Woodley Bridge Farm Crossing. Although sufficient land exists within the proposed SEMK development there are matters of value and costs that remain to be properly considered. Had there been meaningful discussions then agreement might have been possible prior to the TWAO.
- 3.5 Meetings are now taking place to establish common ground which may lead to the withdrawal of the objections. Within the undertaking the agreement needs to include matters of delivery timing, the specification of the Woodley's Farm Bridge or any alternative bridge crossing, the treatment of the existing PRow's over the railway and the compulsory acquisition of the land.

¹ Obj/156 – O&H Properties

² Obj/144 – Swan Hill Homes

4.0 East West Rail Consultation Process Representations

- 4.1 The first Consultation was issued by NR in September 2015³. In Summary our representations advised:
- 4.1.1 The land has been promoted for a comprehensive strategic housing site of up to 2,500 homes.
 - 4.1.2 The concern that no direct contact had been made by NR where it was likely that the EWR Project could have a significant impact on the Company's landholding and the emerging residential growth south of the railway.
 - 4.1.3 Advised that the feasibility of an all movements crossing had been assessed along this section of railway. Land within the adjoining Browns Wood development area was historically reserved for the purposes of a grid road extension for Tongwell Street (V11).
 - 4.1.4 An opportunity exists to provide bridge/underpass for Public Rights of Way ProW's FP008 & BW014⁴ as an alternative to the existing configurations requiring traversing the railway lines⁵.
- 4.2 FLP appointed The Rail Estate Consultancy to liaise with NR. Two meetings with Gallagher Estates and FLP followed in 2016. NR were advised that this site could be allocated for major residential development in the emerging PlanMk. (Being one of four likely directions of growth.) Within the exchange NR confirmed:
- 4.2.1 The temporary construction compound for the Woodley's Farm Bridge was to be relocated further east off FLP Land.
 - 4.2.2 EWR had carried out an audit of the PRoW crossing points and with the increase in service neither justified consideration of being diverted or bridged.
- 4.3 At the second June 2017 Consultation stage the land being promoted for a Sustainable Urban Extension (SuE) was evolving into a preferred allocation by MKC. There had been

³ East West Rail Phase 2 Stakeholder Consultation Pack: September 2015

⁴ NR14: Sheet 44

no further engagement between NR & FLP other than requests to carry out ecological surveys in preparation of the EWR Environmental Statement⁶.

- 4.4 The Information Pack provided further drawings that confirmed the relocation of the temporary compound but without further discussion or contact included ecological mitigation corridors on FLP Land.
- 4.5 The EWR scheme details appeared not to take account of any responses provided in the first phase of consultation. There remained and absence of specific consideration to the emerging growth that likely in this location or the supporting economic case to the EWR Project that the housing allocation of around 3,000 homes would have.
- 4.6 Joint representations were submitted by Gladman (as FLP Holding Company) and Gallagher's which advised NR:
- 4.6.1 Continued support for the principle of EWR Project and the desire to work in cooperation with NR.
 - 4.6.2 That the preferred option and direction for housing growth confirmed as including the land to the south of the Bletchley to Bedford rail line and north of Woburn Sands Road, Bow Brickhill.
 - 4.6.3 The potential need to plan for a separated road crossing at Bow Brickhill Station in support of Milton Keynes planned growth.
 - 4.6.4 The need to reassess the existing PRow routes across the railway.
- 4.7 Between this consultation round and the third issue in December 2017 there was no further contact or communication from NR.
- 4.8 The final submission in the consultation process was a letter dated 9th February 2018. (Appendix 2) This included representations recently submitted to MKC which provided the South East MK Vision Document (Appendix 3). NR was asked to sufficiently recognise and reflect in the EWR scheme the SEMK proposed allocation.

⁶ NR16

- 4.9 It can be noted during the public consultation process NR did not make any representations on PlanMK. NR did not participate in the Examination in Public which commenced on the 10th July 2018 prior to the TWAO. There was no NR representative for the Inspectors round table discussions regarding transport, mobility, access or SEMK or to my knowledge in attendance throughout the Inquiry.
- 4.10 Discussions have now taken place between NR and FLP on the 3rd January 2019. Non-binding Assurances have been given that NR would:
- 4.10.1 Seek to engage with MKC and all the other promoters in respect to the emerging allocation SD13. Where there are clear advantage and benefits between the two projects amendments would be reviewed on a collaborative basis including any changes to the Woodley's Farm Crossing Specification or adjustments in the crossing location more suited to the planning policy (as part of a PlanMK requirements)
 - 4.10.2 Review development matters and any future Citywide considerations as promoted by MKC.
 - 4.10.3 Commence dialogue on the compulsory purchase of the land required for the EWR Project.
- 4.11 The outcome (As referred to in a number of NR Proof of Evidence referred to in Section 8) is a greater understanding as to how the wider public interest can be served.
- 4.12 An agreement that would enable FLP's objection to be withdrawn is achievable in the timescales of the Inquiry in which we continue to engage with NR.
- 4.13 It is recognised that any discussions need to be cognisant of the EWR Project timeline. Should the Woodley's Farm Bridge be constructed as proposed the parties would seek to incorporate within the SEMK proposal.

5.0 Compulsory Purchase Procedure Pre- & Post the Transport Works Act Order

5.1 The Notice to acquire land and rights compulsorily was made on the 27th July 2018. This relates to:

5.1.1 Acquiring Parcels 1111 & 1118

5.1.2 Temporary Use of Land 1112 & 1116

5.2 The notices to acquire or use land were made on the 27th July 2018 being the same day as the TWAO was issued.

5.3 Paragraph 17 of the Compulsory Purchase Guidance⁷ states that:

‘Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted, save for lands where land ownership is unknown or in question.’

5.4 This has not happened.

5.5 In January 2019 NR indicated a willingness to engage in a meaningful way regarding any arrangement pertaining to the acquisition of FLP land associated with Woodley’s Bridge Crossing. FLP has engaged Henry Church of CBRE to act on its behalf whom has been advised that although NR has only recently instructed its agent, Bruton Knowles, to engage on these matters their new advisor responsible for further discussions at the time of this submission has not been fully briefed. Mr Church continues to try and progress matters.

⁷ MHCLG Guidance on Compulsory Purchase Process & Criche Down Rules Updated: Feb 2018

6.0 Matters raised by Network Rail Statement of Case: October 2018

6.1 The NR SoC provided details which had not been previously released regarding the EWR Project. This failure has added to the confusion as to the key milestones for implementing the project, the priorities in fulfilling the EWR programme and the objections from third parties which may overlap with FLP and the Promoter's issues.

6.2 In paragraph 5.1 of the SoC, NR discusses the various policy support for the EWR Project. This includes the DfT's Transport Investment Strategy (NR26), the National Infrastructure Delivery Plan (NR28) that emphasises the need for the railway network to support housing delivery. The SoC paragraph 5.2 discusses National Infrastructure Commission Report (NR44), which again remarks on the need for a comprehensive approach to transport, including the need for integrated transport measures as well as collaboration with local authorities and surrounding developments. NR failed to adequately engage with MKC, FLP or the Promoters on the impact of the EWR Project or recognise the importance of the emerging housing allocation within Policy SD13 to deliver both PlanMK or indeed the economic support for EWR.

6.1 In the SoC Paragraph 3.2.5 (p13) states that to support the proposed new train station and increased passenger numbers, **'the key proposals'** (my emphasis) include:

'improvement of facilities at or closure of highway, private road and public right of way level crossings.'

This key objective has not been applied to the PRoW's adjoining FLP land. There are no intended improvements to FP008 and only cosmetic adjustments to the equestrian crossing facilities for BW014. There are no plans to improve the requirement to cross the line and, aside of the planned residential development the proposals do not take account of the increased usage of the railway line. An opportunity is being missed to create safer routes which will only increase with a rise in users attempting to access Bow Brickhill and Woburn Sands Station that supports the economic case for the improved rail services.

6.2 The programme included as Insert 4-2 (p24) had not been previously discussed with FLP, MKC or the Promoters. The programme for Route Section 2D identifies that construction is to

commence (assuming the order is confirmed and mobilisation by mid-Q3 2019) in Q1-2021. This does not take account of any grant of planning permission for the residential development on the Site.

6.3 The current trajectory in PlanMK would see the initial housing completions latest 2023/24. However, the Promoters believe this is overly pessimistic and subject to the Expressway announcement could be 12-18 months earlier.

6.4 The two projects are clearly running simultaneously where no account within the TWAO has taken regard of:

6.4.1 The date at which planning consent could be granted

6.4.2 The delivery of infrastructure for the major housing scheme running parallel with any construction along this section of line.

6.4.3 Working with MKC for an alternative location or specification of a road crossing for a future strategic road hierarchy.

6.4.4 The consideration in respect to the wider public interest of safe connectivity over the rail line

6.4.5 The importance of the Policy Area coming forward to support PlanMK in their delivery of economic growth and housing for the City

6.5 Since the issue of the SoC document NR has now commenced an appropriate level of stakeholder engagement. (Separate to any individual discussions pertaining to any CPO procedure) The Promoters are keen to see an agreement reached including the timing of the implementation of the Woodley crossing that takes regard of both projects.

6.6 It is evident from the statements made in Section 5.2 of the NR SoC that there has been insufficient engagement with the plan makers or the recognition of the opportunities to maximise economic and housing growth. The TWAO fails to take regard of specific growth locations in the relevant emerging local plans and more particularly PlanMk.

6.7 It is of note that there has been only passing references of the Expressway project and the impact that this may have on the EWR Project. The Expressway preferred route is Option B (Appendix 4). The main document issued by Highways England confirms that the earliest decision will not be released until Autumn this year with the final announcement in Autumn

2020. The degree of engagement between the two major infrastructure projects is not evident or whether it is correct to assume there is no conflict with the current programme proposed by NR.

6.8 Section 8 of the SoC sets out if the TWAO is approved NR will be granted powers to acquire. However, in the matter that NR has had prior discussions or sought to contractually secure FLP land for the purposes of constructing Woodley's crossing this did not occur.

6.9 Within Section 10: Paragraph 10.24 it was not the case that NR sought to clarify any further consideration to FLP objection on the PRoW's but merely to note the position. On the matter of 10.25.4 opportunities to ensure consideration of future developments this did not occur during the Consultation stage of either EWR Project or PlanMK.

7 Matters raised by the Inspector dealing with Land & Procedural Points

7.1 Dealing with the Statement of Matters⁸ these have been covered in my evidence:

Matter 10 – I have drawn attention in Section 6 that no prior discussions have been undertaken by NR to acquire any land via discussions prior to the TWAO being issued.

Matter 13 – Owing to matters raised in my Section 5 I do not consider the procedural requirements have been adhered to.

8 NR51: Engineering Planning Proof of Evidence – Simon Croft

8.1.1 **Paragraph 3.3.5** – The rationale for assessing closure of at grade crossing points is confirmed as being on the basis of a “**Reasonable Opportunity**” defined as *‘any crossing where nearby works create the opportunity to pursue closure’*. Should NR have engaged more proactively and understood the emerging allocation the conclusions drawn in respect of **Paragraph 3.3.6.3** – Browns Wood Footpath (FP008) and **Paragraph 3.3.6.4** –

⁸ Statement of Matters: TWA Orders Unit, DoT: November 2018

Pony (**BW014**) their conclusion could have been different as there are opportunities to provide reasonable alternatives.

8.1.2 **Paragraph 7.12 – OBJ/154 – FLP and Gallagher** – It is agreed that the statements made by Mr Croft is a fair reflection as to the position being discussed since the PIM. These matters continue to be progressed but have not included any potential opportunity in respect to 8.1.1

8.1.3 **Paragraphs 7.12.12 – 7.12.16** provides a willingness to engage regarding the promoters traffic movement data but the starting point should be the assessments carried out by NR. No additional information has been provided other than what has been made available in the Environmental Statements or the Proofs.

9 NR53: Need Case Proof of Evidence – Martyn Angus

9.1 **Paragraph 5.1.4 (iii)** of the PoE confirms the support EWR2 would provide to any new homes and communities along the EWR Project. As has been established there has been an absence of direct engagement as to how the emerging Policy SD13 and the 3,000 homes in this location would interact with the EWR Project. A situation has now arisen which could have been avoided where the time constraints of the TWAO could impact the planning approach for SEMK and the delivery of PlanMK

9.2 **Paragraph 10.6** deals with the FLP Objections with others. **Paragraph 10.6.4** does not suggest an absence of engagement or properly considering the opportunities presented in this period by both MKC and the Promoters. As previously noted NR did not attend the EiP of PlanMK which was held in advance of the TWAO. The Submission draft of PlanMK was publicly available since the first Consultation in March 2017. FLP and others provided the details of the emerging masterplan and issues as part of our consultation submissions referred to in Section 4. It has only been since November 2018 that NR has sought to engage in matters regarding infrastructure improvements that may assist MKC in respect to the longer-term objectives for the City.

9.3 FLP welcome NR are now engaging to have a better understanding of the planned housing growth in this location as confirmed in **Paragraphs 10.6.5 & 10.6.6**

10 NR55: Traffic Proof of Evidence – Tim Colles

10.1 **Paragraph 2.4 9 (Table 2.7)** of the PoE provides a summary as to the potential impacts of the public rights of way crossing the railway. It is of note that the conclusions reached for starting points in relation to FP004 Bow Brickhill that there is no magnitude of change for users and for the Pony crossing BW014 only regarded as being of a low effect. Browns Wood Crossing is indeed not FP004 but FP008⁹. I do not know with certainty whether a mistake has been made with the annotation or that Browns Wood PRoW has not been assessed. This discrepancy has been raised in correspondence with NR on the 31st January 2019 but does not change my views as to the sensitivity. However, it would be an important omission in the ES regarding the PRoW Assessment.

10.2 The PRoW Assessment in the ES does not go to any detail or what is the base case to understand the degree of change for the quantum of pedestrians or equestrian usage. For Route Section 2D my understanding is that initially there will be an increase in service with two additional trains per hour and difficult to ascertain the judgment used for a continuance of a Receptor Sensitivity of ‘medium’

10.3 Referring to the ES Submission¹⁰ the PRoW Assessment Criteria may not have been interpreted correctly for FP008 (assuming this is FP004 in the assessment) and BW014. Table 14.5 provides a PRoW Sensitivity Criteria which has been extracted below.

Receptor sensitivity	Users
High	<p>One or more of the following criteria are met:</p> <ul style="list-style-type: none"> • Users take direct access to residential, commercial or farmland property via an existing PRoW level crossing • Users for whom a PRoW is essential because they do not have any other alternative route available for their journey • Vulnerable users require access to key facilities via PRoW
Medium	Users of the local transport network who use the affected routes frequently for essential journeys such as education and commuting but also have an existing choice of alternative routes
Low	Users of the local transport network who use the affected routes infrequently or non-essential journeys such as leisure and recreational purposes and those who use the routes less frequently for essential journeys

⁹ NR16: Chapter 14 -. Vol 3 – Appendices: Appendix 14.4 – Public Rights of Way Assessment

¹⁰ NR16: Chapter 14 – Vol 2i. Traffic & Transport p14

- 10.4 The PRoW routes take direct access to residential areas from the existing Brown Wood residential quarter which also feed into Tilbrook with the employment uses. Going South over the rail line access is afforded to farmland property and beyond to the AONB along the Greensand Ridge.
- 10.5 It is unclear in the assessment what due regard has been given to be the presence of Paddocks within Browns Wood and the lack of attractive leisure routes going north into the urban area of the City. Any pony/horse riders in this location or those on mountain bike from the existing urban development would want to access the network of bridleways in the South to the Greensand ridge and beyond. This I regard as being consistent with the high category because in reality *'they do not have any other routes available'* Whilst many of these are recreational pursuits they are not infrequent.
- 10.6 What has been established is that NR had not considered the emergence of PlanMK or Policies of the Council on improving connectivity and mobility.¹¹ Whilst a judgment has to be exercised with a greater understanding of the existing use and PlanMK a 'Medium' category appears unjustified and should have 'high' for the purposes of the assessment.
- 10.7 Should the existing crossing assessment conclude the 'high' category NR may have taken greater regard of the ORR Policy to look at alternatives where crossing closures are encouraged in line with the principles of prevention and prioritising those crossings that present the highest Risks.¹² (Appendix 5)

¹¹ NR39 – Policy CC10 – Promoting Healthy Communities

¹² Office of Rail & Road: Strategy of regulation of health & Safety risks – 4: Level Crossings

11 Matters that would enable withdrawal of FLP Objection to the TWAO

- 11.1 With the additional information issued since the PIM further consideration has been given to the submitted objections. These would have the potential to be withdrawn depending on outcome from recent discussions with NR.
- 11.2 The SEMK development once confirmed in the adopted PlanMK will be the new major housing allocation for Milton Keynes. As such the infrastructure proposed for the EWR needs to consider how the two projects are to be advanced and in the delivery of PlanMK. This objection is capable of being withdrawn should this be recorded in the joint statement between the parties.
- 11.3 An agreed approach to the compulsory acquisition of the FLP land to construct the Woodley's Farm Bridge Crossing is required between the parties. Such an Agreement should reflect the strategy in the joint statement regarding the specification or location of any alternative crossing.
- 11.4 NR should consider further the opportunities presented with the emergence of SEMK regarding reasonable alternatives to reduce the inherent risk in footpath or equestrian crossings (FP008 and BW0014) with the increase in rail services.