

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

PROPOSED NETWORK RAIL (TACKLEY LEVEL CROSSING) ORDER

OPENING SUBMISSIONS ON BEHALF OF NETWORK RAIL INFRASTRUCTURE LIMITED

Introduction

1. This Inquiry will consider the proposed Network Rail (Tackley Level Crossing) Order (**'Order'**) made pursuant to the Transport and Works Act 1992 (**'1992 Act'**). The promoting authority is Network Rail Infrastructure Limited (**'NRIL'**). Below presents in outline, the context to the Order, the nature and significance of its underlying proposal (**'Proposal'**), headline implications of the Order, and the strenuous (and indeed, ongoing) efforts of NRIL in relation to certain consultation responses and objections.

Proposal, Need and Benefits

2. The Proposal will serve a scheme (**'Scheme'**) intended for the Tackley Level Crossing (**'T-LC'**). T-LC has been expertly assessed to be demonstrably unsafe for users. It is a 'non-compliant' crossing by virtue of sighting distance deficiency. The station passenger crossing (**'SPC'**) characteristic of T-LC – in having provided level access to the station's eastern platform from Tackley village, and between platforms 1 and 2 – has also meant an inviting (and borne out) hazard for station users. Further, T-LC discloses an indicative, very concerning history of 'misuse' which has tragically coincided with a fatality event, further to numerous near-miss incidents at and around these higher speed, and well-trafficked lines. A robust safety mitigation optioneering process has been undertaken by NRIL. In that the overall risk profile for T-LC cannot reasonably be mitigated as to adequately allow for future public use, its temporary closure in April 2020 was an urgent and critical necessity. Today, that position has not changed. The Proposal provides for regularisation of this, in conjunction with other provisions, remedial measures, benefits and gain, of compelling importance, in the public interest.

3. The Scheme also means enhanced public accessibility, through the introduction of generally improved and step-free access, for almost all user groups (i.e. excluding only equestrians), encompassing the less mobile.
4. In local and wider network resilience terms also, the avoidance of line incident (or accident) will inevitably mean strategic, commercial and economic betterment, through the avoidance of adverse performance outcomes, impacting upon operational efficiency.
5. Separately, the Scheme is designed as a highly significant, strategic component of NRIL's broader Oxfordshire Connect programme ('**Wider Programme**') for the delivery of strategic railway enhancement. This enhancement includes the increase of additional rail freight capacity in keeping with DfT and other stakeholder aspirations, and overarching rail freight strategy (including under the Oxfordshire Rail Corridor Study (ORCS)), for achieving freight growth along the Oxford corridor (being a key freight route from the port of Southampton to the Midlands, and the north) and strategic freight corridor, generally; the prospect of additional non-stopping passenger train capacity, which – albeit ultimately dependent upon the subsequent closure of two other level crossings in Oxfordshire (namely Sandy Lane and Yarnton Lane) – will first depend upon the closure of the T-LC. Without this initial enablement, these benefits cannot subsequently be realised.
6. The closure of T-LC is also likely to enable a future, material increase to line speed – a further significant performance enhancement – for many non-stopping passenger trains.
7. Further to the above, associated benefits of the Scheme will include the addition of 900 metres+ of a new local bridleway route for equestrian, pedestrian and cyclist use; cost efficiencies through the removal of the need to maintain the LC as an asset, as well as removing the operational and delay costs incurred by its use and any incidents associated with it; and overall net savings in associated operational and maintenance costs following installation of the Footbridge.
8. The Proposal will provide for:
 - a) permanent closure of T-LC (which would follow on from temporary closure, since April 2020); permanent stopping up of part of a public bridleway (379/25/10) ('**Existing Bridleway**') (green solid line on Land and Rights of Way Plans [APP7] at the T-LC section

(as to create a cul-de-sac, at this point but nevertheless maintain a direct pedestrian and dismounted cyclist link to a new footbridge). Prior to the (April 2020) TTRO, T-LC allowed for cross-railway public bridleway access via the Existing Bridleway, to join with Nethercote Road (between points 'Z1' and 'Z2');

- b) the creation and designation of a new bridleway (with fencing) ('**New Bridleway**') to the west of the Existing Bridleway (see pink dashed line on Land and Rights of Way Plans), to run adjacent to the railway before connecting with the Existing Byway, to the south. This will complement east-west connectivity, including with Tackley village. This provides for an alternative right of way for the purposes of section 5(6) of the 1992 Act, and which is adequately suitable and convenient. In that this addition under the Proposal has given rise to some objection from equestrians (albeit its actual impact on local equestrian use is shown to be minimal), in fact, the presence of a bridleway adjacent to and in parallel to the operational railway, is neither uncommon nor in any way inappropriate in principle. Indeed, NRIL has identified many such instances, in connection also with the running of higher speed services. Indeed, up until temporary closure of that section of the Existing Bridleway over the T-LC, necessarily, there was proximate interaction between equestrians and the railway. Moreover, in respect of alternative bridleway route options previously scoped (below), the apparently preferred route incorporates a not insignificant section passing similarly adjacent to this section of the railway;
 - c) re-designation (to bridleway status) of part of existing footpath (379/16/20) to the south of Tackley, so enabling equestrian use in conjunction with pedestrian and cyclist use;
 - d) compulsorily acquisition of land and rights in land, and temporary use of land, in connection with works and operations incidental or ancillary to the Scheme;
 - e) temporary stopping-up of rights of way to allow for necessary works to be undertaken;
 - f) temporary possession and/or use of land during construction.
9. Preceding the proposed creation and designation of the New Bridleway, its particular alignment to the west of the Existing Bridleway, follows on from a considered selection of different, hypothetical routes. Other than the New Bridleway, each has been shown to be

unfeasible, would adversely affect landowners or the local community, or otherwise be unsuitable in relative terms.

10. The requirement for the hazardous safety risk evident at T-LC, to be adequately and reasonably addressed by means of closure, itself amply demonstrates the need for the majority part of the Proposal. In the on-the-ground circumstances, the addition of the New Bridleway will present more than an adequate solution for future equestrian users of the T-LC. It so happens that up to the date of T-LC, the number of active equestrians in fact using T-LC on a daily basis was consistently low. Plainly local equestrians were then using – and have continued to use (including since April 2020, evidently) – the ample local routes, not incorporating the T-LC. The Proposal will not affect that satisfactory trend, at all. Further, on any case, pedestrians and cyclists (both station and non-station users) – who comparatively form the clear majority of users groups – will be able to continue to use the Existing Bridleway to achieve complete connectivity, just as before, albeit through a different, safe, experience. That is, even were they to choose not to make use of the New Bridleway. Neither the closure of the T-LC nor the provision of the New Bridleway, etc. will in any way affect their enjoyment of connectivity. Instead, the Proposal can mean only net gain.
11. In conjunction with (but, outside of) the Order, NRIL intends to exercise permitted development rights under Parts 4 and 18 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 in connection with the construction of a footbridge, with lifts (**'Footbridge'**) providing for a safe new (permissive) crossing over the railway and in between platforms, for both station and non-station users. The Footbridge will maintain station functionality, and inclusivity for all pedestrians and (dismounted) cyclists. This will allow those users to continue to connect between the Existing Bridleway and Tackley village. The dedication of a statutory right of way over the Footbridge is neither necessary nor operationally feasible.

Acquisition of Land and Rights over Land

12. In large part, the works required for the Scheme will be undertaken on land within NRIL's freehold ownership. Other plots, currently within private ownership, are additionally required, either permanently or temporarily. The powers in relation to land, sought in the Order, fall into the following categories:

- (a) permanent acquisition of land and rights over land;
 - (b) extinguishment or temporary suspension of rights over land (e.g. access rights, for construction purposes);
 - (c) temporary use of land: for access, construction and/or maintenance purposes (e.g. through (i) exclusive possession: including for stationing worksites and compounds, to facilitate works along the route of the existing railway corridor which will be carried out using permitted development rights; or (ii) non-exclusive possession);
 - (d) powers to survey and investigate land.
13. All land subject to powers in the Order will be necessary for the Scheme. No land will be acquired permanently or temporarily used, unless essential for the Scheme.
14. As to (a) – subject to below – the draft/Order presently provides for the permanent acquisition of Plots 005, 006, 008 and 010, for the purposes of providing the New Bridleway.
15. As to (a) also, in connection with the proposed New Bridleway, the highway will be created by operation of the Order. Oxfordshire County Council (as highway authority) has confirmed also that they do not require freehold ownership for the purposes of its future adoption, as a highway maintainable at public expense. As such, NRIL may not need to acquire land or rights over the New Bridleway – and an amendment to the Order can be proposed accordingly. Relevant landowners' property rights will remain affected by the creation of this highway.
16. As to (b) above, in connection with land that is to be permanently acquired, the Order provides for any private rights of way over this land, to be extinguished also. Private rights of way over land owned and appropriated by NRIL, will also be extinguished.
17. As to (b) also, any private rights of way over land over which NRIL will take temporary possession, will be suspended and unenforceable for such minimum, necessary period as NRIL is in lawful possession.

18. As to (c) above, Network Rail has adopted a prudent approach of differentiating two subsets of powers which will enable temporary use, as to ensure that no greater powers over land are provided for than necessary for facilitating construction.
19. Further, as to (c) above, and temporary access providing for exclusive possession, contemplates the temporary use of land for siting a number of worksites (for example, laydown and storage areas, site offices and accommodation facilities) to facilitate construction. This comprises Plot 001 (Construction of Footbridge) and Plots 004 and 007 (Construction of Bridleway). Sites for this temporary use have been carefully selected following an assessment by the designated project engineer and consents leads for the Scheme.
20. Sites for temporary use for access for construction purposes have been selected following on from a robust assessment by a designated project engineer and the Scheme consents leads.
21. Powers of access for specific plots, included in the Order, are as follows:

Purpose	Plots
Access for worksite and construction compound	001 (exclusive possession)
Access for worksite, construction compound and delivery of materials	003, 003a, 003b, 009
Access for worksite and construction	004, 007 (exclusive possession)
Access for worksite, construction compound, construction and delivery of materials	0011, 0012

22. The Order preserves the power for NRIL to use other plots within the limits of the draft Order as are necessary for the purposes of the Scheme.
23. As to (d) above, the Order provides for standard powers for NRIL to survey and investigate land within the Order limits.
24. The powers over land sought in the draft Order are necessary and proportionate. There is a compelling case in the public interest for the extent of compulsory land acquisition. What amounts to minimal interference with the (qualified) human rights of those holding an interest in affected land, will be justified for the purposes of A1P1 and Article 8 ECHR, in the public

interest and in accordance with the conditions provided for by law, which includes legitimate railway purposes – such as those to be pursued through the Order, together with all associated benefits. The Order will strike an appropriate balance between the public interest arising through the implementation of the Scheme, and the private rights affected by the Order. Also, in respect of land or rights over land, which are authorized to be compulsorily acquired under the Order, compensation will be payable.

Consultation

25. The Consultation Report [APP5] explains the proper approach taken to relevant consultees. For completeness, the consultation additionally encompassed notification of the closure of the Sandy Lane and Yarnton level crossings under the Wider Programme. Pre-consultation activity began in June 2023, with promotional activities to inform the local community and rail users of the forthcoming consultation, encompassing a wide variety of medium. Meetings with OCC (as highway authority), West Oxfordshire District Council (as local authority and local planning authority) and Tackley Parish Council, and various individual councillors. A first round of public consultation was then undertaken for a period of six weeks, from 5 June 2023.
26. Public consultation was very extensively directed at the community who would either be affected or be likely to be affected, by the Wider Programme – not just by the Scheme. NRIL remains committed to ongoing consultation and engagement with interested parties. This will continue as the Order progresses and beyond to completion of the Scheme.
27. Statutory consultation, in conformity with Schedules 5 and 6 to the 2006 Rules was also undertaken (by Bruton Knowles, as appointed land agent) with landowners potentially affected, and with statutory undertakers understood to hold an interest in the land affected. Key stakeholders, such as the local planning authority, and strategic stakeholders (such as MPs and local councillors) were consulted by Network Rail;

Landowners

28. NRIL has strenuously engaged with affected landowners to negotiate by agreement the right to acquire the necessary land interests or rights. Where that has not been possible in the time available, the aim is to agree the terms of acquisition and, in the case of temporary powers, the parameters for which that land will be required. Negotiations are taking place with: Andrew

Charles Peake (registered freeholder of the Tackley Estate), Anthony John Mark Crocker and Janina Anna Pulaski - which remain ongoing.

29. The following landowners had rights to water and electricity on Mr Peake's land and the above plots which NRIL understand will not be the subject of interference: Dr Christopher Charles Alan Spencer and Helen Elizabeth Spencer, Edward Arthur Yarlatt Collier and Jane Karen Collier, Paul Nigel Withers and Gillian Mary Halliday, John Michael Holt.
30. No responses have been received, to date, from Ede Holdings Limited, Fergus Gerard Gallagher, Richard Charles Milliken-Smith, Susan Rose Reeves and Elizabeth Hannah Reeves, Guy Nicholas Roberts and Rachel Gillian Roberts.
31. Mark Andrew Chacksfield and Felicity Kay Chacksfield have no interests that will be affected. Access is to be maintained to Phillipa Jenkins' interest.
32. All reasonable efforts continue to be made by NRIL in respect of ongoing negotiations.
33. Landowners who have an interest in land over which rights are acquired or used temporarily, or over which a public highway is created, will be entitled to compensation. Landowners whose property is otherwise affected by works provided by the Order may also be entitled to compensation. The Order, at Articles 13 and 14, applies Part 1 of the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981 which, through their application, have the effect of requiring Network Rail to pay compensation to parties that qualify under the 'Compensation Code'. Article 18 provides for certain interests and improvements in the value of land retained by an affected landowner to be disregarded. In addition, the Order expressly provides for the payment of compensation to any person who suffers loss through the exercise of the powers in Article 16 (temporary use of land for development).

Objections

34. The outline scope of the objections with which the Order is concerned, has been amply set out in NRIL's Statement of Case, and is not rehearsed here. The basis for these objections are shown either to be unfounded or are adequately addressed by the Proposal, when properly understood. The breadth of NRIL assessment and experience, strongly points to the sincerity with which these objections have been thoroughly considered, assessed and addressed, over

a significant period. That fact is very well-demonstrated in evidence. Negotiations and discussions are ongoing, in the usual way. Attendant, updating revisions to the draft/Order will shortly be provided to the Inspector.

Conclusion

35. The Proposal is demonstrably highly important, compelling in both strategic form and in terms of serving the public interest. Public objection to the Order is satisfactorily addressed. Insofar as the Order will cause some interference to the property interests of certain parties, the history of this matter and evidence amply demonstrates that NRIL has amply pursued every reasonable effort in order to accommodate those interests.
36. It is on the above outline basis that NRIL will invite the Inspector to recommend to the Secretary of State for the Order to be granted.

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18 June 2024