

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

THE NETWORK RAIL (TACKLEY LEVEL CROSSING) ORDER

PROOF OF NIGEL BILLINGSLEY

LAND ACQUISITION

21 May 2024

1 INTRODUCTION

- 1.1 My full name is Nigel Billingsley. I am a partner at Bruton Knowles Limited, a firm of chartered surveyors with the head office at Olympus House, Quedgeley, Gloucester GL2 4NF. The firm operates from some 12 offices throughout the UK. I lead our Utility & Infrastructure team across the Midlands and North.
- 1.2 I am a member of The Royal Institution of Chartered Surveyors (RICS) having qualified in 1990, I am also an RICS registered valuer and a member of the Compulsory Purchase Association. I obtained a BSc Degree in Minerals and Estates Management from Sheffield Polytechnic in 1988 and was awarded a post graduate diploma in Urban Studies from Northumbria University in 1992.
- 1.3 I have worked at Bruton Knowles since 2004 and have practiced predominantly within the field of compulsory purchase and compensation. I have acted for a number of acquiring authority clients and claimants affected by projects including Compulsory Purchase Orders (CPO), Development Consent Orders (DCO) and Transport & Works Act Orders (TWAo).
- 1.4 My role is to lead the Bruton Knowles Utility and Infrastructure team in the Midlands and North, I advise a range of public sector and utility clients across the area regarding TWAo, CPO and DCO projects. As a result of this am familiar with the legislative requirements for the development of such orders and dealing with compensation following the acquisition of land. In addition I am familiar with relevant guidance relating to land aspects of making and implementing such orders.
- 1.5 I append a number of documents to this Proof, each labelled as **[NB1]** etc. which can be found in Appendices document **[NR-W3-2]**.

2 INVOLVEMENT WITH THE SCHEME AND STRUCTURE OF THIS PROOF

- 2.1 Following a limited tender exercise Bruton Knowles were appointed by Network Rail Infrastructure Limited (**Network Rail**) to undertake land agency services with regard to several level crossing closure cases in the North Oxfordshire area. One of the projects included in the work package is the Tackley level crossing closure.
- 2.2 In this Proof I:
- a. describe the purpose of the Order;
 - b. describe the land that is included in the Order and the powers sought;
 - c. provide justification for the acquisition and use of land and property;

- d. set out a review of the scope for owners of an interest in land to claim compensation as a result of the implementation of the Order, if confirmed;
- e. address issues relating to human rights;
- f. provide a summary of landowner engagement undertaken on the Scheme (following Bruton Knowles' engagement by Network Rail); and
- g. set out a response to objections by owners of an interest in land on a case by case basis.

3 THE SCHEME

- 3.1 Network Rail is proposing to close the level crossing at Tackley station. The process of this includes the provision of a footbridge with lifts at Tackley station (**Footbridge**), the stopping up of part of an existing bridleway over the Tackley level crossing and creation of a new bridleway alongside the railway (**New Bridleway**), and other ancillary works (the **Scheme**).
- 3.2 The business case and need for the Scheme is described in more detail in Anna Holbrook's Proof of Evidence **[NR-W1-1]**.

4 LAND THAT IS INCLUDED IN THE ORDER AND POWERS SOUGHT

- 4.1 A large proportion of the works required for the Scheme, will be undertaken on land that is currently in the freehold ownership of Network Rail (within the existing rail corridor) and, as such, no powers over that land are required to be included within the Order Land. However, several plots of land currently within private ownership are required for the Scheme (either on a permanent or temporary basis) – it is those plots that are proposed to be subject to powers within the Order.
- 4.2 The powers sought in the draft Order in relation to land fall into the following categories:
- a. Power to permanently acquire land
 - b. power to acquire new rights; and
 - c. temporary use of land in connection with the development.
- 4.3 The land which is intended to be used for the construction, operation and maintenance of the Scheme is identified on the Land and Rights of Plan **[APP09]** submitted with Network Rail's application for the Order, in the draft Order **[APP02]** and in the Book of Reference **[APP08]**.
- 4.4 A summary of land rights sought is set out in the table below;

Power Sought	Plot
Land To Be Permanently Acquired	005,006,008,010
Land to be used Temporarily	001,003,003a,003b,004,007,009,012

- 4.5 Note that plot 005 contains both a freehold interest and separate rights of access. These are discussed more fully at paragraphs 9 and 10 below.

- 4.6 The purpose of the Book of Reference is to ensure that all parties with an interest in land or rights affected by the Scheme are consulted and receive the correct notifications when their land and rights are affected. The Book of Reference was produced as required for the Order application.
- 4.7 All areas of land subject to powers in the draft Order are necessary for the Scheme and no land will be used temporarily unless essential to facilitate the Scheme. In respect of all land proposed to be subject to Order powers, Network Rail is seeking to secure the necessary land and rights in land by negotiation. As such, the powers in the Order would only be exercised where it is not possible or practicable to reach agreement.

5 JUSTIFICATION FOR THE ACQUISITION OF RIGHTS AND USE OF THE LAND AND RIGHTS

- 5.1 This paragraph addresses provides justification for the acquisition of rights and use of the land and rights.
- 5.2 Paragraph 8.8 of Network Rail's Statement of Case notes that Network Rail will be seeking permanent acquisition of rights only and not permanent acquisition of land for the construction of the New Bridleway. Following further consideration of the likely preferences of the highway authority, it has determined that Network Rail will be seeking to permanently acquire the land of the route of the New Bridleway as is set out below. Article 9 of the Order provides for the process by which the New Bridleway would be transferred to the highway authority and become a public right of way. This reference in the Statement of Case is therefore not correct in this regard but the other parts of the Statement of Case clearly contemplate the acquisition of land.
- 5.3 The table at paragraph 8.12 of the Statement of Case setting out the plots over which temporary use powers are sought includes Plot 005. This is an erroneous reference and has been corrected below.

Permanent acquisition of land

- 5.4 Powers to permanently acquire land included in the draft Order are limited to those parcels of land upon which the New Bridleway is to be placed and in relation to a small area of land sited between the New Bridleway and the byway to the south of the Scheme (plot 010).), ,
- 5.5 Permanent acquisition of the land upon which the New Bridleway sits is required so full ownership can be transferred to Oxfordshire County Council as Highway Authority.

With regards to plot 010, the Order Plans suggest that it will be severed from the wider land. However, the intention is for the New Bridleway route to head away from railway towards the point of termination connecting to restricted byway on the most efficient and reasonable route which will be determined by the detailed design. The route of the New Bridleway will therefore fall either within plot 006 or 010 but the route will minimise the amount of any land left between the New Bridleway and the hedge to the south of plot 010. Network Rail do not propose to permanently acquire any land in plot 010 or 006 adjacent to plot 010 which is to the north of the New Bridleway.

- 5.6 Plots where such powers have been included in the draft Order are as follows:

Purpose	Plots
New Bridleway	005, 006, 008, 010

Temporary use of land for construction purposes

- 5.7 Powers to use land temporarily for the purposes of construction are included in the draft Order.
- 5.8 Land is required for a number of temporary worksites to facilitate the permanent works in various locations. The worksites will include, amongst other things laydown and storage areas, site offices and accommodation facilities. Plots where such powers have been included in the draft Order are as follows:

Purpose	Plots
Construction of Footbridge	001
Construction of Bridleway	004, 007

- 5.9 Sites for temporary use for construction purposes have been selected following an assessment by the designated project engineer and the consents leads for the Scheme.

Temporary use of land for access purposes

- 5.10 The Scope of the draft Order includes the rights for temporary possession for access purposes.
- 5.11 Powers to use land temporarily for access purposes are required to facilitate the construction of the Scheme. This is a 'lesser' power compared to the power of temporary possession described above and is sought over land where exclusive possession is not required during construction (e. g. for the purposes of providing a worksite) and where permanent rights are not required for the purposes of maintenance and operation of the Scheme.
- 5.12 Network Rail is taking the approach of 'separating' out these two categories of temporary powers so as to ensure that no 'greater' powers over land are sought than is absolutely necessary to facilitate construction of the Scheme. Plots where the power of access have been included in the draft Order are as follows:

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

- 5.13 Sites for temporary use for construction access purposes have been selected following an assessment by the designated project engineer and the consents leads for the Scheme.

- 5.14 Should Network Rail be unable to agree private agreement with landowners, it reserves the right to utilise compulsory acquisition powers that would be granted under the Order and Network Rail may seek to acquire other plots within the limits of the draft Order as are necessary.
- 5.15 In accordance with Rule 15 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, notices have been served by Network Rail on the owners, lessees and occupiers of land affected by the Scheme as set out in the Book of Reference.
- 5.16 In accordance with Government guidance, Network Rail's aim is to minimise the use of compulsory purchase and, in an effort to achieve that, it continues to negotiate with affected landowners and occupiers. This issue is addressed further below.
- 5.17 The powers over land sought in the proposed Order have been limited so far as possible to ensure that they are only those necessary for the requirements of the Scheme.
- 5.18 If the exercise of powers conferred by the Scheme results in loss or additional cost to landowners and occupiers, they may be able to submit a compensation claim for such costs and losses which will be considered under the compensation provisions of the order as set out further in this Proof.

6 IMPACT ON THE CURRENT OWNERS AND OCCUPIERS

- 6.1 Network Rail has aimed to minimise the use of private land and publicly owned land (including that owned by Network Rail) has been prioritised for use.
- 6.2 A number of alternatives to the Footbridge and the New Bridleway have been considered (as further described in Anna Holbrook's Proof of Evidence **[NR-W1-1]**). However, for a number of reasons, these cannot accommodate the Scheme and the Order Land is the most appropriate option.

7 PROVISIONS FOR OWNERS OF AN INTEREST TO CLAIM COMPENSATION

- 7.1 Where Network Rail's activities impact upon private land and rights as a result of the exercise of powers contained within the proposed Order, the Order provides for compensation to be paid to the landowners.
- 7.2 In particular, where land is required temporarily for the purposes of the Scheme, under Article 16(5) of the proposed Order, Network Rail must pay compensation to the owners and occupiers of land for which temporary possession is taken for any loss or damage arising from the exercise of powers in relation to the land.
- 7.3 In Article 13, the proposed 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 under the Compensation Code for the acquisition of land, new rights in land for access for construction of the works, or for rights of access for third parties.
- 7.4 Under Article 13, the Acquisition of Land Act 1981 applies as if the proposed Order were a Compulsory Purchase Order. The 1981 Act therefore has effect with certain modifications as set out in Article .
- 7.5 All property owners who have rights imposed upon them or who have an interest in land or land rights taken from them therefore will be entitled to claim compensation in accordance with the Compensation Code, which provides a consistent approach to the assessment of fair compensation (as may legally be varied from time to time).

- 7.6 In the event that agreement regarding the quantum of the claim cannot be reached, the proposed Order also makes provision for determination of the quantum of compensation to be paid, in that the parties are able to refer the dispute to the Upper Tribunal (Lands Chamber) for determination.
- 7.7 Hence, although the proposed Order provides Network Rail with powers to interfere with private land interests, such interference is subject to the payment of compensation and the interference is kept to only that which is required to secure the purposes of the proposed Order.

8 SUMMARY OF LANDOWNER ENGAGEMENT

- 8.1 Network Rail has engaged with all landowners, occupiers and other property interest holders affected by the Order. Offers of engagement have been made to all parties to discuss the Scheme and contact remains ongoing at the time of submission of this Proof.

- 8.2 Details of the negotiations are described below:

Andrew Charles Peake

- 8.3 Andrew Charles Peake (**Mr Peake**) is the freehold owner of Plots 001, 003, 003A, 003B, 006, 007, 008, 009, 010 and 012, which form part of the Tackley Estate. The Order would allow for Plots 006, and 008 to be acquired from the Tackley Estate and redesignated as public bridleway with plot 010 also being acquired from the Tackley Estate as the land would otherwise be severed from the wider Tackley Estate land (**Bridleway Land**). In addition, Plots 001, 003, 003A, 003B, 007, 009 and 012 which fall within the Tackley Estate will be used temporarily.
- 8.4 Engagement with Mr Peake's agent Hywell Morse of Law& Fiennes LLP has been ongoing May 2002, in particular Mr Audley of Network Rail sent information to Mr Morse, the agent for the Tackley Estate by e mail dated 17th May 2022, communication has been ongoing since that time and has comprised emails, letters, meeting and phone calls. A copy of e mails between the parties which also reflect any meetings held are attached hereto **[NB1]**.
- 8.5 There have been ongoing discussions regarding this matter with Mr Peake and his agent Mr Morse since 10th May 2022 when James Audley of Network Rail contacted Mr Peake (as set out in James Audley's Proof of Evidence **[NR-W2-1]**). Further details regarding communications are set out below.
- 8.6 Bruton Knowles set up the case file on 30th May 2022 from that time the case was led at a local level by Joan Halligan MRICS an associate who resides in Oxfordshire. From the commencement of the case Joan Halligan had conduct of direct communications with Mr Peake's land agent, Mr Morse . Joan Halligan left Bruton Knowles in February 2024 From the end of February direct conduct of discussions fell to my colleague Adam Taylor with myself involved in recent discussions with Mr Peake's agent commencing with a virtual meeting on 25th April 2024 with a follow up virtual meeting on 13th May 2024. However, throughout the period of Bruton Knowles involvement I have oversight of the project and was aware of the position when Joan Halligan was in place and subsequently Adam Taylor. At Bruton Knowles e-mails and documents are held on a e-filing system and so are available to colleagues working on the case throughout. Changes in Bruton Knowles team have had no bearing on the progression of any agreement. Meetings are being held regularly with Mr Peake's Agent to seek to resolve any issues arising prior to the onset of the Public inquiry. In addition to negotiations my colleague Lynn Alderson led on land referencing and correspondence regarding land referencing issues was undertaken by her.

- 8.7 As at the date of this Proof, negotiations are ongoing with Tackley Estate to reach an agreement to acquire the Bridleway Land and agree terms for a licence to occupy the land sought on a temporary basis.
- 8.8 The issues that are outstanding are as follows;
- a. Value of the land;
 - b. Licence fee for occupying temporary land;
 - c. Treatment of the road surface beneath the railway bridge with the Estate seeking assurances at the bridge height will be maintained;
 - d. A request by the Tackley Estate that Network Rail procure the permanent closure of the Existing Bridleway in the event that the railway station is closed. (It is important to note that there is no plan to close the station);
 - e. Installation of signage at the northern end of the New Bridleway directing walkers to the designated footpath which goes to the west of the Railway line along the southern boundary of Tackley Estate land. This is requested because walkers do not always use the designated path but walk on land belong to the Tackley Estate.
- 8.9 As at the date of this Proof, negotiations with Mr Peake are ongoing with further meetings planned and heads of terms being discussed. However, Network Rail are hopeful that an agreement can be made to secure the necessary interests in land on a voluntary basis.
- 8.10 I also note in the statement of case submitted on behalf of Mr Peake that there are two points that sit within the scope of my evidence, being the second ground of objection (The application's effects on the Old Whitehill underpass) and the fourth ground of objection (The Heads of Terms) which I consider below, for the avoidance of doubt the paragraphs in italics below are taken from Mr Peake's Statement of Case **[SOC-OBJ-70]**.

Second Ground of Objection

"(ii) The second ground: the application's effects on the Old Whitehill underpass

21 The Old Whitehill railway bridge is located to the south of the proposed stepped footbridge which would span across the railway. The underpass which runs under the bridge will eventually be used as an access for the applicant's works, including transporting the materials necessary to construct the footbridge.

22. The bridge is low for modern agricultural purposes and Mr Peake understands the applicant may need to lower the underpass track under the bridge so that its vehicles can transport materials to the work site.

23. Mr Peake is content for the underpass track to be used by the applicant for these purposes; however, in doing so, the opportunity must be taken to ensure the underpass can be used in future by farm machinery and that improvements are made to prevent the ponding of rainwater under the underpass, making it unpassable for walkers. The applicant states in its Response that it "would like to thank your client for your agreement to share use of the route during the construction period and for access to the proposed northern compound". For the avoidance of doubt, Mr Peake's agreement is subject to satisfactory terms being agreed.

24. To ensure the bridge is left with enough height clearance for farm machinery to travel underneath, Mr Peake requests the underpass track is lowered to an appropriate depth and standard, to be agreed with Mr Peake.

25. In addition, the applicant is aware that certain pipework (believed to be the property of Thames Water) is buried shallowly in the vicinity of the bridge. The pipework will need to be buried lower for the applicant's purposes and Mr Peake requests it is lowered to suitable depth and standard, again to be agreed with Mr Peake, to allow the subsequent use of the track by farm machinery.

26. New drainage should be installed to ensure that the area does not hold water, making it unpassable for walkers.

27. The applicant states in its Response that it is "engaging with the Statutory Undertaker who own the apparatus under the bridge to determine what may be able to be done at this location". The Response goes on to commit to keeping Mr Peake up to date with progress of the discussions. Mr Peake would encourage the applicant to progress with this engagement as a matter of urgency and would want to be certain of the applicant's position regarding any improvement works it proposes to carry out at the Old Whitehill underpass well in advance of the Public Inquiry. Since only one Statutory Undertaker is involved, Mr Peake would hope that an update can be provided quickly. The importance of this issue being progressed expeditiously has been raised on behalf of Mr Peake on several occasions, including on the most recent site visit to the Old Whitehill underpass on 27 July 2023."

- 8.11 Network Rail responded to the objection by letter dated 1st March 2024, the response to this point is as follows, 'Network Rail are engaging with the Statutory Undertaker who own the apparatus under the bridge to determine what may be able to be done at this location. At this moment in time, I am unable to confirm what, if any changes might be able to be made. However, I can commit that you will be kept up to date with progress.'

Response to Second Ground of Objection

- 8.12 The bridge is in situ and although it has been noted it is 'low for modern agricultural machinery' the purpose of the TWAO is to deliver its aims and it is outside the scope of the TWAO to amend the bridge height.
- 8.13 I note that Network Rail has offered to ensure that Mr Peake can use the access under the bridge throughout the works thereby ensuring that he is in no worse position during the construction period.
- 8.14 In the objection Mr Peake appears to seek a form of betterment in requesting that Network Rail reduce the road level thereby effectively increasing the bridge height. This is complicated by the presence of a sewer in the road meaning that any reduction in the road level will necessitate works to lower the sewer. Network Rail will discuss this with relevant sewer operator however, the reduction in road surface is not required to deliver the Scheme and such works fall outside the scope of the Scheme.
- 8.15 I have discussed the position regarding the road with Mr Andy Willson of Network Rail and he has provided a proposal plan showing the final position of the roadway after the works[NB2].
- 8.16 By seeking to have the road lowered Mr Peake is seeking a betterment from the Scheme that falls outside the scope of the Scheme and therefore cannot be delivered by Network Rail unless it delivers such coincidental to the works envisaged to deliver the Scheme.

Fourth Ground of Objection

"(iv) The fourth ground of objection: the Heads of Terms

34. Paragraph 6.2.11 of the Consultation Report states the applicant is "hopeful that a mutually beneficial agreement can be reached". As stated in the Objection, Mr Peake does not consider the Heads of Terms are currently satisfactory and considers significant revisions are necessary.

35. In the Objection, Mr Peake requested that discussions on the draft Heads of Terms continue. While Mr Peake shares the applicant's hope (as further expressed in the Response) that an agreement can be reached, the current draft is a cause for significant concern. While comments on these will be returned to Bruton Knowles shortly, Mr Peake was surprised that the person responsible for leading these negotiations has changed again (for the third time). It would seem sensible if a regular schedule of meetings was arranged to close out the draft Heads of Terms as a matter of urgency.

36. As mentioned, the application provides for the temporary use of Estate land. The Objection explained there was limited information on the duration of the "temporary" use and stated Mr Peake would welcome further information on this point. The Response confirms that "the compounds will be required for a period of up to 12 months. Bruton Knowles will discuss the duration and proposed terms within the draft Heads of Terms". Mr Peake agrees that these points need to be addressed in the Heads of Terms. Mr Peake's understanding, however, is that the Northern compound will be needed for longer than 12 months."

- 8.17 Network Rail responded as follows to the objection by letter dated 1st March 2024: 'It is anticipated that the compounds will be required for a period of up to 12 months. Bruton Knowles will discuss the duration and proposed terms within the draft Heads of Terms.'

Response to Fourth Ground of Objection

- 8.18 It is usual for Heads of Terms to be the subject of discussion, as noted above there are ongoing discussions with Mr Peake's land agent regarding Heads of Terms that may be mutually acceptable.
- 8.19 There is a requirement for a compound area to facilitate the delivery of the Scheme, the duration of the requirement will be confirmed by the contractor who will be appointed by Network Rail to undertake the works. This approach is usual in such cases and the term of any voluntary licence sought by Network Rail will reflect their estimate of the period that the licence is required for. It is clear however from Network Rail's response of 1st March 2024 that the period of occupation of the compounds is up to 12 months, and therefore that is the period reflected in the draft heads of terms.

Anthony John Mark Crocker and Janina Anna Pulaski

- 8.20 Anthony John Mark Crocker (**Mr Crocker**) and Janina Anna Pulaski (**Ms Pulaski**) are the freehold owners of Plots 004 and 005. The Order would allow for Plot 005 to be redesignated as bridleway and Plot 004 to be used temporarily.
- 8.21 Mr Crocker and Ms Pulaski have not appointed a land agent with contact being directly with Mr Crocker. Engagement has been ongoing since 16th December 2022, when Bruton Knowles sent a letter seeking information regarding land ownership to Mr Crocker and Ms Pulaski. Subsequent to the letter there has been communication with them by both Bruton Knowles and directly by Network Rail communications team. A note of the communications is set out below. A copy of communication documents are attached hereto as appendix [NB3].

8.22 In particular the following is a summary of communications

- i. An RFI form was sent by BK on behalf of Network Rail to Mr Crocker and Ms Pulaski on 16th December 2022 requesting a confirmation on their interest in the land identified for the above plots. Mr Crocker and Ms Pulaski contacted Network Rail directly following receipt of the RFI. Network Rail then maintained conversation with Mr Crocker and Ms Pulaski to chase the RFI. Network Rail's Consultation Manager held phone and email conversations to explain the process to Mr Crocker and Ms Pulaski as well as to inform them of any developments with Bruton Knowles.
- ii. BK visited Mr Crocker and Ms Pulaski on site on 16th June 2023 who expressed concerns around the fencing Network Rail were to install and advised they would return the RFI. The RFI was then received by BK on 27th June 2023.
- iii. Brief details of the Scheme and its intended purpose were sent to Mr Crocker and Ms Pulaski on 16th June 2023. This correspondence also included details of how the Scheme impacted the landholding, together with our estimate of the amount payable to the landowner under the compensation code. The correspondence advised Mr Crocker and Ms Pulaski that BK were instructed to seek an agreement with them to purchase the freehold of the land concerned or to agree an option agreement to purchase the land. The correspondence invited Mr Crocker and Ms Pulaski to contact BK to discuss the offer, and if required, to arrange a site meeting. The correspondence further advised that Network Rail would undertake to reimburse Mr Crocker and Ms Pulaski's reasonable legal and professional fees on completion of the purchase / option agreement.
- iv. On 14th August 2023 a further letter enclosing the original letter of the 16th of June was sent to Mr Crocker and Ms Pulaski.
- v. On 6th December 2023, BK emailed Mr Crocker and Ms Pulaski, requesting a response to the letter. BK received a response from the landowners on the 11th of December 2023 requesting additional information about whether the land will stay in their name. BK responded, informing the landowners that the parcel of permanent land purchased will change ownership, whilst the temporary land will remain in their name.
- vi. BK received an email from Mark Crocker on the 14th of December 2023 stating that they believe the purchase to be unnecessary, and instead the signal box should be relocated. BK provided the landowner with website links on the 15th of December 2023 which would allow them to log their comments.
- vii. ix. BK contacted Mr Crocker and Ms Pulaski on the 1st of March 2024 requesting an update on their position following the letter which outlined the offer. The landowners responded to BK on the 27th of March 2024, reiterating that they believe the signal box could be moved, but also stating that they would be willing to give up their objections in return for an improved offer. They informed BK that their existing planted hedge and wildflower area will have to be removed and destroyed and the current offer does not account for the level of disruption which will be caused.
- viii. BK contacted Mr Crocker and Ms Pulaski by email on the 29th of April 2024, with an uplifted offer for both the permanent and temporary land requirements.

BK then proceeded to send follow-up emails requesting a response on the 8th of May 2024 and the 10th of May 2024. BK received a question from Anthony Crocker on the 8th of May 2024, requesting detail about whether the previous weekly payment would be combined with the updated offer.

- ix. Mr Taylor of Bruton Knowles subsequently spoke with Mr Crocker and the uplifted offer was verbally accepted. This has been reported to Network Rail and formal documentation is being prepared to finalise an agreement between Mr Crocker/Ms Pulaski and Network Rail.

- 8.23 As at the date of this Proof, negotiations with Mr Crocker and Ms Pulaski are ongoing but there is a verbal agreement between the parties with formal documentation being prepared.

Oxfordshire County Council (OCC)

- 8.24 Network Rail have been in discussion with OCC Highways for several years on the matter of closing the level crossing and diverting the Bridleway. These have historically been held with Network Rail's liabilities team and are addressed in James Audley's Proof of Evidence [NR-W2-1].
- 8.25 Bruton Knowles sent a request for land information to OCC by letter dated 8th February 2023. A response was sent by letter dated 23rd February 2023 which confirmed that the OCC did not own any land within the Order boundaries. Their interests are in respect of public footpaths and bridleways as noted below.
- 8.26 As is noted in the Consultation Report [APP5] brief details of the Scheme and its intended purpose were sent to OCC on 16th June 2023. The letter was in fact dated 3rd July and was in a standard format to all those affected by the Scheme. Despite OCC's interest being only in regard to highways the standard letter included details of how the Scheme would impact the landholding, together with our estimate of the amount payable to the interest holder under the compensation code.
- 8.27 On 14th August 2023 a further letter enclosing the original letter of dated 3rd July was sent to OCC. By e-mail of 15th August OCC confirmed that they did not have any land interests that were capable of being transacted and at that stage land agency communication was not continued.
- 8.28 Consideration of the land position regarding objectors who have rights only recorded in the Book of Reference.

Consideration of the land position regarding objectors who have rights only recorded in the Book of Reference.

- 8.29 A number of objections have been put forward by those who are listed in the Book of Reference as having rights only within the wider titles of land that is within the Order. I have reviewed the objections and note that they do not relate to land agency matters but relate rather to equestrian and other issues. However as they are within the Book of Reference then I set out below a summary of communications. A summary of communication with rights holders is set out below.

Guy Roberts (OBJ 08)

- 8.30 18 August 2023 a request for information (RFI) was issued to Guy and Rachel Roberts, no response was received from this interest holder. We note that the land is that owned by Mr Crocker and Ms Pulaski.

Helen Spencer (OBJ 49)

8.31 Helen Spencer dealt with correspondence on behalf of herself and Dr Christopher Charles Alan Spencer. A summary of the correspondence is set out below:

- a. 05.04.2023 – RFI letter posted to interest holder.
- b. 12.05.2023 – BK received completed RFI letter (physical copy) from interest holder dated 17th April 2023.
- c. 30.05.2023 – BK received email from Helen Spencer confirming that she received information from her neighbour (Gill Withers) about the scheme. Confirmed that the RFI letters had been completed and posted to BK.
- d. 14.06.2023 – BK sent email to Helen Spencer acknowledging receipt of the RFI.

Gillian Withers (OBJ 66)

8.32 Gillian Withers dealt with the correspondence for herself and her husband, Paul Nigel Withers as well as for her neighbours (being John Micheal Holt, Jane Karen Collier, and Edward Arthur Yarlatt Collier). A summary of correspondence with her is set out below:

- a. 05.04.2023 – RFI letter posted to the interest holder.
- b. 11.04.2023 – BK held phone call with Gill Withers to discuss the RFI and the scheme in general.
- c. 12.04.2023 – BK received email from Gill Withers with a copy of the correspondence she has sent to her neighbours about the Scheme. BK responded by email.
- d. 18.04.2023 – BK sent email to Gill Withers following confirmation from NR about vehicle access concerns.
- e. 19.04.2023 – BK received email from Gill Withers acknowledging receipt of the above.
- f. 12.05.2023 – RFI letter returned to BK (physical copy) dated 11th April 2023.
- g. 25.05.2023 – BK sent email to Gill Withers asking whether her neighbours would be able to return the RFI form as well.
- h. 30.05.2023 – BK received confirmation that the above email was forwarded to the various neighbours. BK sent email to acknowledge this.

Jane Collier (OBJ 56)

8.33 As noted above Gillian Withers led communications for a number of rights holders at Whitehill including Jane Collier, a note of that correspondence is set out above.

Kay Chacksfield (OBJ 61)

8.34 A summary of communications with Mark Andrew Chacksfield and Felicity Kay Chacksfield is set out below;

- a. 18.08.2023 – RFI letter posted to the interest holder.

- b. 04.09.2023 – BK received email and voicemail from Susanna Bowles who was acting as the agent for Mr & Mrs Chacksfield. BK responded to this by email with a copy of the land registry document for ON261823.
- c. 11.09.2023 – BK received email from the agent, confirming they have completed a high level review of the land registry documents and concluded that the Chacksfield's have no interest in the land ON261823. BK responded explaining the reason they believed the interest holder may have had an interest.

9 CONSIDERATION OF OUTSTANDING OBJECTIONS

- 9.1 In this section I summarise and respond to objections lodged in relation to the Order, so far as those objections relate to matters within my expertise and remain outstanding at the date of this Proof.
- 9.2 The objectors fall into in two categories:
- a. those with freehold interests in the Order Land; and
 - b. those with rights in or over the Order Land,
- 9.3 At the date of this Proof there are two outstanding objections (OBJ/62 and OBJ/70) against the proposed temporary use of and acquisition of permanent rights in the Order Land, both of which are objections submitted by statutory objectors with freehold interests in the Order Land. Objections have also been raised by individuals who hold rights over the Order Land, but the content of these objections do not relate to any of the land agency aspects of the Scheme and therefore I have not commented on them. These are summarised in the table below.

Objection/Objector	Interest
OBJ/70 Andrew Charles Peake	Freehold owner of Order Land
OBJ/62 Anthony Crocker	Freehold owner of Order Land
OBJ/08 Guy Roberts	Rights of access
OBJ/49 Helen Spencer	Rights under a transfer
OBJ/56 Jane Collier	Rights under a transfer
OBJ/61 Kay Chacksfield	Rights of access
OBJ/66 Gillian Withers	Rights under a transfer

- 9.4 Below I consider OBJ/62 and OBJ/70 (being the objections of freehold interest holders) insofar as they relate to matters within my expertise. I also consider the impact of the Scheme on those objectors who hold interests by way of rights in the Order Land.

Objections from those with freehold interests in the Order Land

Mr Crocker (OBJ/62)

- 9.5 Mr Crocker's objection provides that:

"In the plans the new bridleway would take an awkward v-shaped turn and take some of this land to avoid a signal control box. We think that this has significant health and safety issues.

We wanted to point out that the box was initially set back next to the railway, so in this case the bridleway could go straight on. If the signal box were returned to its initial position or a bit further south, which should be fairly straightforward, this would mean the bridleway could avoid the awkward "dog leg". It would also avoid a health and safety issue. The dog leg version of the bridleway, if it went ahead, would take part of the space now used for access and turning space for private cars as well as vehicular access for Southern Electric, Thames Water and Agricultural vehicles. At the moment there is no clash as there is space enough. However adding a proper bridleway will make this a safety nightmare as it will become very crowded at certain times and expose the horses to a variety of vehicles in a narrow space.

We would thus request a change of plans such that Network Rail move the signal box and thus the bridleway would stay on the land owned by them and avoid the turning area we own."

- 9.6 Network Rail responded to Mr Crocker's objection on 26 February 2024. The content of that response can be summarised as follows (and has been included in Network Rail's Statement of Case):

"Network Rail has been informed that this electricity supply point is provided with a connection from Scottish & Southern Electricity Networks. The District Network Operator (**DNO**) cabinet supplies power to critical track circuits. A track circuit forms part of the broader signalling system, which comprises many parts to enable trains to move safely around the network. A track circuit itself is an electrical system that detects the absence of a train on a section of track. This information then helps the signalling system know if it's safe for another train to proceed. The DNO also provides power for Station lighting, Points Heating and Signalling equipment housed in a nearby REB. This equipment is vital for the safe operation of the railway. On discussing this with our Regional Asset Management Team, it isn't simple or straightforward to move. Moving the DNO would mean that we would impact the power supply to the elements mentioned above and therefore need to introduce temporary power supply. There would also be civils work, changes to the boundary and the testing and commissioning of the asset. Additionally, from Corporate lessons learnt, the Railway suffers numerous performance and operational issues due to cable joints irregular failure. The introduction of cable joints would also likely impact the asset reliability unless wholesale renewal was undertaken.

It is not our intention to alter any part of the existing route in terms of width or surface materials until the field entrance beyond your land, this has been confirmed with Oxford County Council. There are likely to be slight alterations to the gate line at the field entrance, although usage will be very similar as to today. Even though it is currently designated a public footpath, the route is already used by horse riders and pedestrians to access the wider Public Right of Way network."

Mr Peake (OBJ/70)

- 9.7 The objection submitted on behalf of Mr Peake refers to the alternative routes to the New Bridleway proposed by Mr Peake to Network Rail, being (i) a proposal for a new bridge north of Tackley Station, also known as Barwood Bridge and (ii) a diversion to the west of the railway. The reasons why these alternatives have been rejected by Network Rail as inappropriate for the Scheme are set out in detail in Mr Willson's Proof of Evidence **[NR-W5-1]**.
- 9.8 A third alternative option is also raised, being the crossing of the new bridleway further to west of the proposed location of the New Bridleway following a route currently being used under licenses granted by Mr Peake to select equine users. This alternative option is referred to in

Table 3: Options considered for the Scheme of Network Rail's Statement of Case (referred to as the Infield Route) and had previously been rejected by Mr Peake due to the impact it would have on his use of the land, particularly with regards to livestock grazing. In discussions held in May 2024 with Mr Peake's agent it was clarified that although the land use is currently arable, changes to the approach to framing the estate in the near future will require a rotation in the fields that includes livestock hence there is a requirement for fencing.

- 9.9 Mr Peake's objection provides that "there is limited information as to the duration of the "temporary" [use of Mr Peake's land] and Mr Peake would welcome further information on this point"
- 9.10 Bruton Knowles have held further meetings with Mr Peake's representatives as noted above, and as a result of these a formal proposal to reach agreement was submitted by Bruton Knowles to the Mr Peake on 16th May 2024 and we await a response from the Estate.
- 9.11 As provided above, Network Rail continues negotiating with all objectors with a view to agreeing the best way forward and having the objections to the Order removed as soon as possible.

Impact of Scheme on those with rights in or over Order Land

- 9.12 As noted above the rights holders do not object on land agency grounds, but it is helpful to understand the extent of their property interests and the impact of the Scheme on those interests.

Guy Nicholas Roberts (OBJ/08 (Plots 005 and 004))

- 9.13 Mr Roberts has a right of access across plots 005 and 004 to access 74 Nethercote Road.
- 9.14 These rights will be maintained throughout the Scheme.

Helen Elizabeth Spencer (OBJ49)

- 9.15 The objector is noted as holding rights within the following plots, Plot 0001, Plot 0003, Plot 0003A, Plot 0003B, Plot 0006, Plot 0007, Plot 0008, Plot 0009, Plot 0010, Plot 0012.
- 9.16 The origin of the rights is as follows; Rights contained within a transfer dated 25 April 2018/Rights contained within a transfer dated 19 January 1998 The rights are associated with the residential units that were formerly part of Old Whitehill. In particular:
- a. **Transfer 19.01.98 (ON261823)** which includes the right to supply water at the position marked on the plan, the right within 12 months to lay water pipes from the Property to connect with the existing pipes at the position marked, and the right to enter the property to inspect, maintain, and repair, and renew the water pipes; and
 - b. **Transfer 25.04.18 (ON340500)** being a transfer of the land from Andrew Charles Peake.
- 9.17 I have reviewed the titles and note that the reference to water pipes relate to land at Old Whitehill underpass. The Scheme will not impact on these rights.

Karen Jane Collier (OBJ 56)

- 9.18 The plots affected and titles noted, and response is the same as for Helen Elizabeth Spencer above.

Gillian Withers (OBJ66)

- 9.19 The plots affected and titles noted, and response is the same as for Helen Elizabeth Spencer above.

Felicity Kay Chacksfield (OBJ61)

- 9.20 Kay Chacksfield is noted as holding rights in the flowing plots, Plot 0003, Plot 0003A, Plot 0011, Plot 0012.
- 9.21 The rights relate to access along Old Whitehill road. The Scheme will not result in a road closure.

10 CONCLUSION

- 10.1 The draft Order has been made in accordance with the relevant guidance which includes a requirement to seek agreement with land and property interest owners.
- 10.2 As evidenced in this Proof of Evidence and the Statement of Case submitted by Network Rail, all the land and rights over land, which Network Rail has applied for, are necessary to implement the Scheme and, therefore, there is a compelling and justified case in the public interest for the powers and rights to be granted under the proposed Order.
- 10.3 It is considered that any interference with human rights is lawful, proportionate to the public benefit that will be derived from the Scheme and in the wider public interest in order to secure the benefits resulting from the delivery of the Scheme. Any interference with Convention rights is therefore considered to be justified.
- 10.4 I am satisfied that Network Rail have sought to minimise the impact of the Scheme upon the objectors and that compensation provisions within the Order will ensure that the objectors are fully recompensed as far as possible to offset the impact of the Scheme.
- 10.5 I believe there is a compelling case to justify confirmation of the Order, I have reviewed the evidence from Mr Willson and believe that the evidence there set out, in particular the need for, and lack of alternatives to the Scheme, mean that there is a compelling case to justify the authorisation of compulsory purchase powers in respect of the Order Land.

11 WITNESS DECLARATION

- 11.1 This proof of evidence includes all facts which I regard as being relevant to the opinions that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion.
- 11.2 I believe that facts I have stated in this proof of evidence are true and that the opinions expressed are correct.
- 11.3 I understand my duty to the Inquiry to help with the matters within my expertise and I have complied with that duty.



NIGEL BILLINGSLEY

Dated: 21 May 2024

Appendix NB1- Correspondence with Mr Peake and Mr Peake's Agent

Appendix NB2 – Drawing showing the road level under the works

Appendix NB3 – Correspondence with Mr Crocker & Ms Pulanski