



Department for Transport

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4 March 2021

Dear Sirs,

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED NETWORK RAIL (CHART LEACON) ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the application made on 14 December 2018 by your client, Network Rail Infrastructure Limited (“NR”), for the Network Rail (Chart Leacon) Order (“the Order”), to be made under sections 1 and 5 of the Transport and Works Act 1992 (“TWA”).

2. The Order, as applied for, would confer powers on NR to compulsorily acquire land and rights in land required in connection with the construction, maintenance and operation of a new light maintenance depot facility in the Ashford area to stable trains. The Order also confers powers for the temporary use of land and authorises NR to stop up highway land at the Western end of Beaver Lane. Changes to the Order were proposed by NR after it was submitted (“the revised Order”) and it is this revised Order on which the Secretary of State has made his decision. The revised Order would limit the amount of land to be acquired and includes amended protective provisions for Statutory Undertakers.

3. As the revised Order does not contain any works powers, NR has not submitted an environmental statement with the Order application nor are they seeking a direction as to deemed planning permission from the Secretary of State.

Summary of Secretary of State’s decision

4. For the reasons given in this letter, **the Secretary of State has decided to make the revised Order with modifications.**

Procedural Matters

5. In making the application, NR has complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (“the 2006 Rules”). This included serving copies of the application and accompanying

documents on the persons specified in the 2006 Rules and making the documents available for public inspection. As also required by the 2006 Rules, NR displayed and published notices giving information about the application and how to make representations and served notice on those whose land would be compulsorily acquired and those whose rights over land would be extinguished under the revised Order.

6. In response to the application the Secretary of State received 3 objections to the application from Southern Gas Networks Plc, South Eastern Power Networks and Bellamile Limited. The Secretary of State decided on 28 February 2019 that a Public Inquiry was to be held and this was scheduled for 15 October 2019. However following negotiations between the parties, all objections were withdrawn on 27 September, 8 and 11 October 2019 respectively and on 14 October 2019 the Public Inquiry was cancelled. The application is, accordingly, now unopposed. Whilst this application does not seek deemed planning permission, it is linked to an application for planning permission that was granted on 2 April 2020 by Ashford Borough Council (ref 18/01842/AS). The Secretary of State needed to be satisfied that planning permission was in place before making a decision in relation to the TWA application. Following the grant of planning permission, changes were made to reduce the scope of the Order and as set out in paragraph 2, it is this revised Order on which the Secretary of State has made his decision. The changes incorporated into the revised Order were changes agreed with the interested parties and thus, in these circumstances, no further consultation was considered necessary.

Purposes of the Order

7. The Secretary of State notes that the frequency of the Thameslink service is anticipated to increase through the addition of 2 trains per hour between Cambridge and Maidstone East (via London Bridge) to provide a total of 24 trains per hour through the core route between Blackfriars and St Pancras International. As a result, there is a need for permanent additional stabling facilities in the Ashford area to accommodate the stabling of these additional trains. The Secretary of State notes that NR consider Chart Leacon as the most suitable site to meet this need.

The Secretary of State's consideration and decision

8. The Secretary of State notes that the stabling works to be carried out at Chart Leacon have been authorised by a separate planning permission which was granted on 2 April 2020 by Ashford Borough Council (ref 18/01842/AS). The Secretary of State further notes that the revised Order is required to provide NR with powers to allow for this planning permission to be enacted by facilitating the construction, maintenance and operation of this facility and authorising the compulsory acquisition and stopping up of highway land for the same purpose.

9. The Secretary of State is satisfied that as set out in their Statement of Aims, NR have considered various options for accommodating the displaced trains, but the site at Chart Leacon was identified as the most appropriate to accommodate this need as part of realising the full benefits of the Thameslink project.

10. The Thameslink upgrade comprises extensive infrastructure improvements and the delivery of 115 new class 700 trains with the ambition of transforming north-south travel through London. The Secretary of State notes the introduction of additional train cars onto the railway is a necessary requirement of improving the connectivity as is the need to

provide additional stabling facilities for these additional trains as services increase. The Secretary of State considers that proposals to improve and increase rail capacity have wider advantages in promoting sustainable patterns of travel, assisting modal shift from the private car, and that suitable facilities to stable and maintain trains is integral to achieving and sustaining enhanced and increased rail movements.

Case for Compulsory Acquisition Powers including funding

11. The Secretary of State has considered NR's reasons for making the application, and is satisfied that compulsory acquisition of the land subject to the Order is required and is necessary to facilitate the construction, maintenance and operation of the stabling works and stopping up of land for the same purpose. The Secretary of State notes from the funding statement submitted with the application that the cost of implementing the scheme (including the costs associated with its construction, the implementation of the Order and the cost of any compensation) will be met from the NR CP6 Statement of Funds available. The Secretary of State is accordingly satisfied, having regard to the Ministry of Housing, Communities and Local Government guidance (Crichel Down Rules) on the compulsory purchase process (as updated in July 2019), that all necessary funding is available, that there is no impediment to the scheme going ahead and that for the reasons summarised in this letter there is a compelling case in the public interest for the compulsory acquisition powers in the Order which justifies interfering with the human rights of those with an interest in the land that would be subject to those powers.

Secretary of State's overall conclusion and decision

12. The Secretary of State is satisfied that the statutory procedures in connection with the application for the Order have been followed.

13. The Secretary of State has had regard to all matters set out above and has determined in accordance with section 13(1) of the TWA to make the Order under sections 1 and 5 of the TWA, subject to a number of minor drafting amendments which do not make any substantial change in the proposal such as would require notification to the affected persons under section 13(4) of the TWA.

Notice of determination

14. This letter constitutes the Secretary of State's notice of his determination to make the revised Order for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your client is required to publish a notice of the Secretary of State's determination in accordance with section 14(4) of the TWA.

Challenge to decision

15. The circumstances in which the Secretary of State's decision may be challenged are set out in the note to the Annex to this letter.

Yours faithfully,

Natasha Kopala

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the grounds that—

- it is not within the powers of the TWA; or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge made be made, by application to the High Court, within the period of 42 days beginning with the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

A person who thinks they have grounds for challenging the decision to make the Order is advised to seek legal advice before taking action.