

From: [REDACTED]
To: [Immingham OCGT](#)
Subject: EN010097- VPI Immingham OCGT Project - Deadline 6a - Response from Network Rail Infrastructure Limited [ADDGDD-LIVE.FID3030710]
Date: 22 January 2020 14:05:05
Attachments: [REDACTED]

Dear Sir/Madam,

I refer to the Examining Authority's letter of 9 January 2020 and the question raised of the Applicant and all Statutory Undertakers:

"The Applicant and all Statutory Undertakers with outstanding objections to CA [Compulsory Acquisition] are requested to submit their cases on the tests in sections 127 and 138 by Deadline 6a. Any comments on those cases are invited for submission at Deadline 7."

Please find below a submission made on behalf of Network Rail Infrastructure Limited in response to this question.

Network Rail's response to ExA's question:

The Applicant is proposing to exercise compulsory purchase powers in relation to four parcels of land which are owned and occupied by Network Rail. These are plots 41, 104, 105 and 106 ("the Plots") as identified in the BoR. The Applicant is seeking compulsory powers to acquire and extinguish the following rights in relation to the Plots:

"new rights to be compulsorily acquired and in relation to which it is proposed to extinguish easements, servitudes and other private rights:

- 1) rights to pass and repass on foot, with or without vehicles, plant and machinery; and*
- 2) rights to retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve an underground gas pipeline, control systems and cables and any other ancillary apparatus and any other works as necessary."*

The Plots are operational railway land and Network Rail does not consent to property rights in relation to such land being compulsorily purchased as this could jeopardise the safety and operational efficiency of the railway. Network Rail does not have any other land available to it which could be used to avoid such serious detriment given that it has an existing operational railway line running across the Plots and such line cannot be moved.

Discussions are ongoing with the Applicant in relation to securing the following documents in an agreed form:

- (i) Protective Provisions to ensure that compulsory purchase powers are not exercised against Network Rail (it is acknowledged that the Applicant has included a short form of NR protective provisions in DCO Draft 4 and amendments to these are being discussed with the Applicant); and
- (ii) Property agreements in the form of an Option for an Easement, draft Easement and Deed of Variation to the existing Easement.

It is hoped that these documents can be agreed to enable Network Rail to withdraw its objection. However, if the documents cannot be agreed then Network Rail will maintain its objection.

In conclusion, in relation to the tests set out in section 127 PA 2008:

- the land comprised in the Plots was acquired by Network Rail for the purposes of their undertaking; and

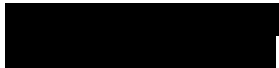
- Network Rail has submitted a relevant representation and written representation in relation to the application for the Order granting development consent and its objection has not yet been withdrawn; and
- the use of compulsory acquisition powers to acquire new rights and extinguish existing (including the acquisition of rights to "...alter, remove, refurbish, reconstruct, replace..." the existing underground gas pipeline and other equipment) cannot be done without serious detriment to the carrying on of Network Rail's undertaking; and
- any detriment cannot be made good by Network Rail using other land belonging to, or available for, acquisition by them.

Regards,

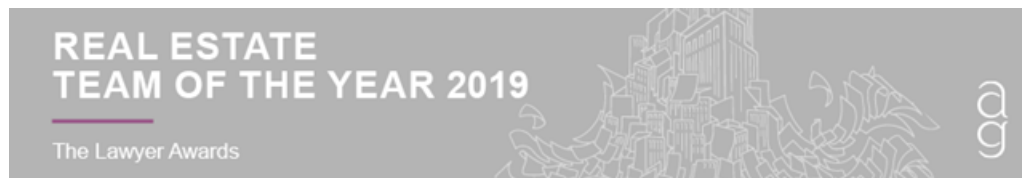
Julia Dixon

Legal Director

Addleshaw Goddard LLP



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