

27 November 2012

Network Rail Limited
Kings Place
90 York Way
London N1 9AG

Dear Sirs,

Your project : WMSR Line of Route Oxford Area Re-Signalling

I have seen three drawings of this project, which is on the mainline north of Oxford, that have been drawn by the engineering firm, Atkins. The drawing reference numbers are:

5109279-RLS-ALC-CST-00020/P01 (Aristotle Lane Footbridge proposed reconstruction option – General Arrangement)

5109279-RLS-ALC-CST-00021/P01 (Aristotle Lane Footbridge proposed reconstruction option – Enlarged Sections)

5109279-RLS-ALC-CST-00022/P01 (Aristotle Lane Footbridge proposed reconstruction option – Allotment and Car Park Access)

On these drawings, the proposals shown include:

Reconstruction of the Aristotle Lane Footbridge

Closure of the Aristotle Lane private accommodation level crossing

Construction of a new down relief line

Diversion of existing drainage ditches

Tree felling and other landscape works

Changes to boundaries

Construction of structures including steps, ramps, footpath re-grading, a bridge extension and car parking.

The land affected, as far as I am aware is in the ownership of:

The Freeman of the City of Oxford (Port Meadow)

Oxford City Council (Trap Ground Allotment Gardens, let to the Trap Ground Allotment Association; land to the south of St Philip & St James First School, subject to permissive rights; land under the level crossing, subject to permissive rights; Trap Grounds

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Town Green, registered town green)

Oxfordshire County Council (St Philip and St James First School; Aristotle Lane Byway Open to All Traffic; Aristotle Lane Bridleway).

There is also your own land, part of which is subject to permissive rights of access.

A meeting was held with Oxford City Council on Monday 12 November 2012 that was attended by your representatives Mr Richard McCulloch and Mr Andrew Holley and some interested parties. I was not present at that meeting but I understand that it was informed that the proposal:

was the reinstatement of a passing loop as a fourth track to the west of the other tracks

has operational permitted development as it is wholly within your current operational land

follows the line of a former track in this position in the not so distant past – and that in consequence this is not going to be a new track because the track bed is still there and is to be largely reused.

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I have looked at the 2008 Planning Act and in particular its sections 25(1) and (2), and at the provisions of Class A of Part 17 of Schedule I of the General Permitted Development Order that is referred to.

It appears to me that the following proposed works are for the construction of structures (including the reconstruction and alteration of structures) where the design and external appearance will be materially affected. These include:

The construction of a new line which does not follow the line of any previous trackway

The closure and reconstruction of drainage channels

The construction of new bridges, ramps, steps and drainage channels

The closure of the private accommodation level crossing

A loss of habitat and a possible threat to the habitat of Port Meadow SAC and Trap Ground Town Green SSSI.

I have noted that some exploratory work has already been undertaken on the land to the west of the existing tracks which extends from the level crossing for several miles north to the site of the old Witney line junction.

Given these facts, it appears to me that this proposed development is clearly and expressly excluded from the scope of the General Permitted Development Order and that Network Rail does not have operational permitted development for this work, or any other kind of permitted development under the 2008 Act or any other

legislation. The development work should, I believe, be the subject of consent after the due process of an application under the Planning Act. Only after such an application is made will I be assured of being given the benefit of a proper and due assessment of the townscape, design and transport implications, the risks, the environmental impact on the Special Protection Area and the Site of Special Scientific Interest generally and specifically the impact on locally endangered plant and animal species; and only then will I be assured of the public consultation to which a “nationally significant infrastructure project” should be subjected.

I have made inquiries of the Department for Transport and National Infrastructure Planning who have informed me that they are unaware that any application has been made for this proposed work. If it is your intention to proceed with any of this work I would be grateful therefore if you would kindly confirm to me that you will not attempt the work under the provisions of the General Permitted Development Order, which would be a misapplication of the provisions of that Order, but that you will apply for lawful consent as may be appropriate for the proposal.

Yours faithfully,

copy

Ian Salisbury

cc. Trap Grounds Allotment Association – Committee
Oxford City Council – Head of Development
City Councillor Jim Campbell
Freemen of the City of Oxford –
Oxfordshire County Council – Mr John Griffith
Natural England
Trap Ground Town Green –
Department for Transport
National Infrastructure Planning
Office of Rail Regulation

From: Ian Salisbury [mailto:ian@salisbury.uk.com]
Sent: Thursday, November 29, 2012 4:13 PM
To: committee@trapgroundallotments.org.uk; CROFTON-BRIGGS Michael; jimc@frenchayox.demon.co.uk; stephen.ewens@hmg-law.co.uk; johnhay.griffin@btinternet.com; rebecca.tibbetts@naturalengland.org.uk; Alan.allport@psy.ox.ac.uk; Caroline O'Neill; mwscott@oxford.gov.uk; CCT Contact; samantha.mcclelland-hodgson@orr.gsi.gov.uk; NI Enquiries
Subject: Network Rail proposed new line project, Oxford [Scanned]

Please see the attached reply from Network Rail to my letter.

In this letter reference is made to the Oxford & Rugby Railway Act 1845 and the Railway Consolidation and Clauses Act 1845. Network Rail say that reinstating the line may be carried out under Part 11 of Schedule 2 of the General Permitted Development Order as having "prior approval" under the Oxford & Rugby Act. The construction of a new bridge at Aristotle Lane and associated works would require consent.

In a telephone conversation I had with Mr Colin Field of Network Rail yesterday evening, Mr Field said that the programme for the track laying project was for clearance of vegetation between November 2012 and February 2013; clearing old and laying new ballast July – November 2013, with track laying completed by the end of 2013.

Ian Salisbury

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Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

From: Field Colin [mailto:Colin.Field@networkrail.co.uk]
Sent: Thursday, November 29, 2012 12:14 PM
To: Ian Salisbury
Cc: CROFTON-BRIGGS Michael; Varey Charles; McCulloch Richard
Subject: North Oxford rail development [Scanned]

Mr Salisbury,

I hope the time spent on the phone was useful last night and I hope you can now see why the Aristotle Lane Footbridge replacement with LC closure is a completely separate project from the North Oxford Passing Loop, which is connected to the freight train lengthening project.

Whilst there are obvious benefits to each project if both implemented, fundamentally they are not dependent on each other, they are being funded separately and both are at different stages of project development.

The train lengthening project to reinstate a passing loop is not a new railway for the purposes of the Planning Act and would not be a NSIP as my view is that the works could be permitted development under Part 11 or 17A of the GPDO. The passing loop is not a new railway for the purposes of the GPDO it is simply as the name suggests a passing loop on an existing operational railway (to put back infrastructure that was decommissioned in the late 1960's); all of the permanent works will be within NR's ownership; and for the purposes of the GPDO the land is considered "operational".

Here is a photo of the site looking south from Godstow Road Bridge in the 1940's and the passing loop we plan to reinstate is to the right of the photo.



For your reference and in response to your question below the railway at this location, it was constructed under the Oxford & Rugby Railway Act 1845 (which incorporated the Railway Consolidation and Clauses Act 1845).

From our phone conversation last night it is however apparent that the project you are most interested in is the footbridge replacement and the aspiration to close the level crossing. To clarify our conversation in association with this project the other works excluding the bridge itself are on land outside the operational railway and therefore this project is unlikely to be permitted development in its entirety.

The Footbridge itself could potentially be reconstructed as permitted development (Part 11 prior approval as we did for the Oxford Station Bay platform) if we did not provide other works to the sloped approaches; steps; and car parking spaces near the school on land outside our control. It is due to the works outside the railway ownership that we need planning permission. However these works outside our ownership are not considered an alteration to a railway and therefore would unlikely be considered an NSIP for the purposes of the 2008 Planning Act. We may yet decide that we deal with the bridge span as a separate "prior approval" application under Part 11 and the ancillary works beyond the railway corridor as planning permission, this decision has yet to be made.

However notwithstanding my initial thoughts on the town planning process for Aristotle Lane footbridge and other associated works to facilitate the closure of the LC. The town planning application process outlined above would not override any civil matters regarding land ownership and the use of third party land and should land owners consent not be forthcoming this is not something I am qualified to advise on.

I hope this email helps.

Regards

Colin

Colin Field MRTPI

Senior Town Planner

Wales and Western

0117 3721116

07515 626431

3rd Floor, Temple Point, Redcliffe Way, Bristol, BS1 6NL

From: Ian Salisbury [mailto:ian@salisbury.uk.com]
Sent: 28 November 2012 18:28
To: Field Colin
Subject: Oxford rail development proposal [Scanned]

Dear Mr Field

Thanks again for the phone call.

I have trawled through the 1845 and 1846 railway legislation and it looks as though there were at that time around 20 cases that may have relevance to this stretch of track, even dealing with such arcane matters as the type of gauge to use.

I would be very grateful if you would let me have the reference to the originating legislation, including any relevant amendments, on which you would rely for any permitted development to be carried out under Part 11 of Schedule 2 of the GPDO.

Five emails will follow with the information given to me by the ORR.

Many thanks

Ian Salisbury

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From: Alan Nettey
Sent: Wednesday, November 28, 2012 2:38 PM
To: Ian Salisbury
Cc: NI Enquiries
Subject: RE: Possible nationally significant infrastructure project [Scanned]

[Hi Mr Salisbury](#)

[In response to your latest question, all provisions for the enforcement of development falling within the 2008 Act are set out in Part 8, sections 160 - 173.](#)

If development for which development consent is required, is constructed without such consent this is an offence for which the Council can prosecute the developer. If a person is found guilty under s.160 or 161 the Local Authority can issue a Notice of Unauthorised development, this is similar to an enforcement notice issued under TCPA and will specify the steps that need to be taken to remedy the breach of planning control. If the steps are not taken the Local Authority can enter the land and carry out the steps required and reclaim the cost of this. The Local Authority also have the power to apply to the Court for an injunction if it considers necessary or expedient to restrain any actual or apprehended prohibited activity.

Hope things work out with Network Rail.

Thanks

NI Enquiries

From: Ian Salisbury [mailto:ian@salisbury.uk.com]
Sent: Wednesday, November 28, 2012 11:43 AM
To: Alan Nettey
Cc: NI Enquiries
Subject: RE: Possible nationally significant infrastructure project [Scanned]

Dear Mr Nettey

Thank you for your email, which is most helpful. I have already contacted Network Rail by letter and sent a copy of that letter to your "enquiries" address. But for your convenience, now that I have your email address, I append a copy to this email.

I have a question arising, which is to ask whether, under the 2008 Act, there are the equivalent of "Stop Notices" and "Enforcement Notices" that are found under the Town and Country Planning Acts and Regulations.

Many thanks

Ian Salisbury

From: Alan Nettey [mailto:Alan.Nettey@infrastructure.gsi.gov.uk]
Sent: 28 November 2012 11:38
To: Ian Salisbury
Cc: NI Enquiries
Subject: RE: Possible nationally significant infrastructure project [Scanned]

Dear Mr Salisbury

Possible nationally significant infrastructure project

Thank you for your e-mail and its attachments and the telephone conversation yesterday, we have endeavoured to respond to your queries.

As you are aware the Planning Act 2008 governs the process for granting development consent for Nationally Significant Infrastructure Projects. Sections 14, 25, 31 and 32 are relevant to determining whether a project requires development consent. If development consent is required and an application is made, section 55 details the requirements that must be satisfied for the application to be accepted. We can confirm that these provisions, as they apply to your queries, have not been altered in substance by the Localism Act 2011.

If an application is made under the 2008 Act the Secretary of State does have the power to include provisions in the Order relating to the closure of level crossings. However, we are not in a position

to advise you on the complexities of the law relating to level crossings and suggest that you seek your own legal advice on this matter.

We suggest that you contact Network Rail directly to discuss your concerns and continue to liaise with Oxford Council. If Network Rail wish to contact us we would be happy to advise on the criteria for Nationally Significant Infrastructure Projects and discuss their proposals with them.

We do hope that this assists you.

Yours sincerely

National Infrastructure Enquiries

From: Ian Salisbury [mailto:ian@salisbury.uk.com]
Sent: Wednesday, November 28, 2012 10:57 AM
To: committee@trapgroundallotments.org.uk; CROFTON-BRIGGS Michael; jimc@frenchayox.demon.co.uk; stephen.ewens@hmg-law.co.uk; johnhay.griffin@btinternet.com; rebecca.tibbetts@naturalengland.org.uk; Alan.allport@psy.ox.ac.uk; Caroline O'Neill; mwscott@oxford.gov.uk; CCT Contact; samantha.mcclelland-hodgson@orr.gsi.gov.uk; NI Enquiries
Subject: Network Rail proposed new line construction project, Oxford [Scanned]

Please see the attached letter to Network Rail about this new line construction, which I am sending to you for information.

In a nutshell, I have been provided with information which indicates that Network Rail intend to construct a new line, with associated works including the construction of a new bridge and the closure of a level crossing on the main line railway, for several miles north of Oxford. Although it has been stated that this work may be carried out under "operational deemed consent" it is my view that an application for the work is required under the Planning Act 2008. The work will impact locally including on the Port Meadow SAC and the Trap Ground Allotment Association.

Enquiries of the Department for Transport and National Infrastructure Planning have indicated that no application for this work has been made, yet exploratory work has commenced.

I have therefore asked Network Rail to confirm that it will apply for lawful consent for this development.

Ian Salisbury

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From: Ian Salisbury [<mailto:ian@salisbury.uk.com>]
Sent: Thursday, November 22, 2012 3:01 PM
To: NI Enquiries
Subject: Possible nationally significant infrastructure project [Scanned]

Dear Sirs,

I attach a string of emails exchanged with the Head of Planning and Development at Oxford City Council, and an extract from the designs for a railway extension by Network Rail which, if the Head of Planning is correct, Network Rail intend to proceed with as if it is permitted development. I am concerned that it is being treated as permitted development, for if it is it is likely that my interest in the affected land, namely access to my allotment garden across a private amenity pedestrian level crossing will be lost; for it is part of the proposal, as shown on the plans, to close that crossing.

Although I am aware you cannot advise me on the merits of any representations I may wish to make, I have had difficulty following the provisions of the Planning Act 2008, as amended by the Localism Act, and would be grateful if you would kindly let me know, in respect of the topics that I have raised in the attached email that I sent today to Mr Crofton Briggs, where I can find the relevant governing legislation that will be applied to determine whether an application for consent has to be made; and if such an application has to me made, the criteria by which and the conditions on which it will be determined, and the process to be followed in reaching that decision.

As you will see, I have found no reference to the closure of level crossings. If there is legislation that describes the circumstances in which level crossings may be closed, and the process involved in seeking approval to such a closure, I shall be very grateful to be referred to that particular piece of legislation.

Yours faithfully,

Ian Salisbury

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