

**By Email and Post**

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Our Ref: PFI/18136/275/  
Your Ref: TWA 8/1/2

5 July 2012

Dear Mr Fox

**Application for the Proposed Network Rail (Ipswich Chord) Order**

Thank you for your letter of 22<sup>nd</sup> June addressed to Alison Gorlov.

**Article 4(3)**

The disapplication of section 6 of the Party Walls Act was included in relation to excavation works required in relation to the relocation of a sewer (Work No. 2A in the Order), which might otherwise trigger requirements for notice under section 6 of the Act on all adjoining owners.

In the absence of this disapplication the statutory powers of the Order would be subject to the consent of each of the building owners concerned and potentially a dispute process under the Act. That could well result in delay to the implementation of an important public infrastructure project and may result in onerous requirements being imposed which could frustrate construction. It is noted that the Party Walls Act (and not just section 6) was disappplied both by the Crossrail Act and (in respect of its predecessor) by the Channel Tunnel Rail Link Act. It is assumed that this was for the same reason of avoiding impeding an important public infrastructure project. It is appreciated that both these schemes were on a larger scale and involved rather more excavation, but on a smaller scale similar concerns arise in relation to this scheme. We would add that the landowners concerned have been fully consulted about works, and given an opportunity to make representations, through the DCO process.

**Article 18**

The purpose of including the power to impose restrictive covenants is to enable a protection zone to be imposed on either side of the railway embankment to prevent development being carried out adjoining the embankment which could affect its safety. Although Network Rail has powers to go on to neighbouring land, to repair or prevent damage, railway legislation does not impose a restriction on neighbouring development which could cause a risk to the railway. The alternative would be to acquire a strip of land compulsorily, but that seems a disproportionate exercise of compulsory purchase powers, and it does not seem in the public interest for Network Rail to own and retain land for which it has no use.

I appreciate that it is possible to acquire such rights by agreement under the threat of compulsory purchase powers but that depends on co-operation from all the landowners concerned and introduces uncertainty and delay in the process.

You ask whether the notices served on landowners referred to the power to impose restrictive covenants. The answer is that they did not. Unlike TWA rules the Planning regime does not have specific compulsory purchase notices specifying which Order powers affect the land in question. All persons required to be notified of the acceptance of the application get a generic prescribed notice which simply summarises the main proposals. The relevant landowners were of course fully consulted about the scheme and were aware that compulsory powers affected their land.

**Powers of entry**

In the light of your email of 3<sup>rd</sup> July we will not complete the gateway forms.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paul Irving', with a large, stylized flourish at the end.

**Paul Irving**  
**Partner**

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