

**First Corporate Shipping Limited
trading as The Bristol Port Company**

2 November 2020

Summary of relevant representations

Application by North Somerset Council for an order granting development consent for the Portishead Branch Line – MetroWest Phase 1

**Planning Inspectorate reference TR040011
Unique reference PORT-S57657**

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FIRST CORPORATE SHIPPING LIMITED
PORTISHEAD BRANCH LINE – METROWEST PHASE 1
SUMMARY OF RELEVANT REPRESENTATIONS

1. INTRODUCTION

- 1.1 First Corporate Shipping Limited, which trades as The Bristol Port Company ("BPC") objects to the application by North Somerset Council ("NSC").
- 1.2 BPC needs:
- 1.2.1 to ensure the proposed works have no negative impact upon its statutory undertaking, operations and the activities of its tenants and customers; and
 - 1.2.2 to minimise the impact on its operations of land being lost to or sterilised by NSC's proposals.
- 1.3 BPC is the statutory undertaker for Bristol and the owner and operator of the commercial port of Bristol ("Bristol Port"). BPC questions the need for and extent of the proposals and the requirement for its land to be taken. It disputes that a compelling case has been made that the compulsory acquisition proposed is in the public interest. It does not accept that the compulsory acquisition can be achieved without serious detriment to its undertaking.
- 1.4 BPC has identified matters which require consideration at issue specific hearings, including the need to preserve reliable access for rail freight traffic to and from Bristol Port and BPC's continued access between parts of its operational land across the railway. BPC objects to the proposed rights of compulsory acquisition over its land and anticipates pursuing this at a compulsory acquisition hearing. It reserves its position to appear at any open-floor hearing.

2. BPC'S POSITION

- 2.1 BPC disagrees with NSC's proposals because they will adversely affect the efficient and economic operation of Bristol Port. The scheme will only provide an hourly passenger service but will have a significant and disproportionate impact upon BPC's undertaking and will involve permanent loss of land in its ownership held for its statutory undertaking.
- 2.2 NSC has failed to have sufficient regard to and/or fully to assess various matters, including:
- 2.2.1 the damaging effects on BPC's business and statutory undertaking, including its ability to deliver operational certainty to customers and efficient links to inland transport;
 - 2.2.2 the availability of rail paths for freight trains and their interaction with passenger services;
 - 2.2.3 the adverse impact on BPC's private crossing between its land on either side of the proposed railway;
 - 2.2.4 alternatives, including in relation to the proposed land take, to minimise the impacts on Bristol Port;
 - 2.2.5 the effect of the construction on the operation of Bristol Port and other port-dependent businesses;
 - 2.2.6 operational consequences of restrictions during construction and future access rights; and
 - 2.2.7 the effect of land safeguarded for port development no longer being available.

3. DEVELOPMENT CONSENT ORDER

3.1 The draft development consent order ("DCO") contains inadequate controls over the works.

3.2 The DCO does not:

3.2.1 provide adequate and acceptable protective provisions for BPC;

3.2.2 justify the compulsory acquisition which would affect BPC; or

3.2.3 state clearly how the compulsory acquisition powers will be exercised.

3.3 Further concerns will be provided following detailed consideration of the DCO, including the effect on private rights granted by BPC to National Grid Electricity Transmission PLC and Western Power Distribution (South West) PLC for delivery of the Hinkley Point C Connection Project.

3.4 The draft protective provisions in favour of BPC are inadequate. BPC will expect appropriate controls over works/activities affecting roads on and around Bristol Port, any ancillary works on BPC's land, temporary use of land and works programming, and restrictions on access during construction. Such controls are necessary to ensure the safe and efficient operation of Bristol Port during construction of the scheme.

4. RAIL ACCESS

4.1 BPC seeks assurances, included in the DCO, that during construction and once the new passenger service is in operation, access for freight traffic will not be restricted and needs adequate protections to ensure its service delivery will not be impeded.

4.2 The scheme states it will accommodate existing freight rail paths. Merely accommodating existing freight rail paths would be inadequate to avoid serious detriment to BPC's statutory undertaking. Reliable and timely access to rail freight traffic is critical to BPC. BPC will expect the DCO to protect current and future freight traffic.

4.3 NSC's proposals include the creation of a permanent road-rail access point ("RRAP") with, permanent rights in relation to vehicular access to the RRAP, and for trains to pass over BPC's private railway. Unspecified works are proposed to BPC's perimeter track and level crossing to create the access point. These proposals will interfere with BPC's use of the track and its private rail link, and damage its infrastructure.

5. LOSS OF RAIL CROSSING AND SAFEGUARDED LAND

5.1 NSC proposes to close BPC's private crossing connecting its operational land either side of the disused railway. Without provision for any alternative, such closure will unacceptably interfere with BPC's operations and statutory undertaking.

5.2 NSC proposes the compulsory acquisition of land adjacent to BPC's boundary for ecological works together with a permanent right of access over BPC's land. This land is safeguarded for port development within NSC's adopted planning policy in recognition of the need for land for development at Royal Portbury Dock. In the absence of any alternative, BPC objects to this safeguarded land being taken away.

6. COMPULSORY ACQUISITION

6.1 BPC objects to the compulsory acquisition powers conferred by the DCO and requests a compulsory purchase hearing.

- 6.2 The compulsory acquisition powers sought affect BPC's operational land held for its statutory undertaking. The Examining Authority will therefore need to be satisfied that the powers may be exercised without serious detriment to BPC's statutory undertaking. BPC considers this condition cannot be met.
- 6.3 The extent of compulsory acquisition powers over public vehicular highways and adjacent land appears excessive. It has not been demonstrated satisfactorily why BPC is being compulsorily deprived of its interests in the land or why NSC needs any interest beyond that normally vested in a highway authority by dedication and adoption.

7. OTHER CONSTRUCTION ISSUES

- 7.1 Insufficient details are available for HGV and construction traffic movements within and around the Royal Portbury Dock Estate ("RPD Estate"). BPC needs to be satisfied that these will not have any detrimental effect on traffic and cargo moving to and around the RPD Estate and requires protective provisions to control all construction activities within and around the RPD Estate.
- 7.2 During construction the track around the RPD Estate is to be used for HGV traffic. This conflicts with regular vehicular use of the track by BPC and others (including contractors working on the National Grid Hinkley C Connection project) which must be preserved. Security of the RPD Estate is also a significant concern. If BPC permits use of the track, it must be maintained by NSC and BPC would need absolute control over any works to it.
- 7.3 The construction compound on BPC land beneath the M5 overbridge will interfere with access and impair the security integrity of the RPD Estate.
- 7.4 BPC has insufficient detail of the proposals to deal with culverts that discharge surface water from south of the rail to the north, and any protections proposed.

8. PUBLIC PATHS

- 8.1 BPC has concerns about the works affecting public bridleways/cycleways in and around the RPD Estate, including the creation of further rights of way by compulsory acquisition of BPC land. The need for these works has not been demonstrated.
- 8.2 It is inappropriate permanently and compulsorily to deprive BPC of land to provide public rights of way in substitution for routes which are currently only permissive and for which the existing (dedicated) public path network already provides an adequate alternative.
- 8.3 NSC proposals go further than is necessary or proportionate, in that NSC seeks to acquire the whole of the land over which the new works and/or paths may lie. All that would be necessary would be the dedication as public highway of any new route.

9. ECOLOGY

The Examining Authority will need further information on a number of issues, including:

- 9.1 BPC's environmental management plan for the Court House Farm development; and
- 9.2 the wider adverse environmental impacts on flora and fauna within BPC's established wildlife corridors and green areas on the southern boundary of the RPD Estate.

First Corporate Shipping Limited, trading as The Bristol Port Company

Wedlake Bell LLP

26 February 2020 (this summary dated 2 November 2020)