

**BY EMAIL AND OVERNIGHT COURIER**

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Our ref: GYYP/115040.02051

10 September 2024

Dear Ray Oldfield

**THE KENT COUNTY COUNCIL (A28 STURRY LINK ROAD) (SIDE ROADS) ORDER 2023****THE KENT COUNTY COUNCIL (A28 STURRY LINK ROAD) (COMPULSORY PURCHASE) ORDER 2023**

- 1.1 Network Rail submitted a letter dated 14 December 2023 stating it objected to the abovementioned Compulsory Purchase Order and that it has made representations to the Railways Directorate of the Department for Transport pursuant to section 16 and Schedule 3 Part II of the Acquisition of Land Act 1981. Network Rail does not have a record of notice that the abovementioned Side Roads Order was made by Kent County Council and Network Rail wishes to give representations in respect of the SRO in this letter.
- 1.2 Network Rail and Kent County Council are in the process of negotiating a private agreement to manage the use of CPO powers by Kent County Council over land in which Network Rail has an interest and control the carrying out of the SRO works on Network Rail land in order to manage the impact of the SRO (if granted) on Network Rail's operational land, and in particular, the Broad Oak Level Crossing. Network Rail and Kent County Council are seeking to conclude this private agreement as soon as possible.
- 1.3 In the event that insufficient progress is made regarding the private agreements Network Rail reserves its position to request to be heard at the public inquiry to explain the impact of the proposals on its railway undertaking.
- 1.4 Network Rail relies on its letter dated 14 December 2023, rather than submitting a proof of evidence. Network Rail therefore objected to the CPO and made representations under section 16 and Schedule 3 part II of the Acquisition of Land Act 1981 to the Department for Transport. Section 16 provides special protection for the operational land of statutory undertakers. Section 16(2) states that compulsory purchase orders shall not be confirmed unless the Secretary of State, in this case the Department for Transport, is satisfied that the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or that if purchased it can be replaced by other land belonging to or available for acquisition by the undertaker without serious detriment, and certifies accordingly.

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- 1.5 Network Rail reserves the right to make further submissions if it is not possible to make sufficient progress with Kent County Council regarding its private agreements, and Network Rail is obliged to speak at the public inquiry.
- 1.6 Network Rail considers that if the CPO or SRO was confirmed without modification, it would give Kent County Council the power to carry out works and acquire land without securing appropriate protections for Network Rail and its railway undertaking.
- 1.7 Additionally, the SRO would grant Kent County Council the ability to modify the road leading to Broad Oak Level Crossing which is one of Network Rail's busiest level crossing in Kent (as measured in vehicular traffic). Increasing the number of cars over the crossing increases the chance of misuse and ultimately leads to unsafe risks that would endanger both the railway and the general public.
- 1.8 The SRO and CPO may pose a cumulative impact on the Broad Oak Level Crossing if other pending planning applications for residential development in the area are granted. Network Rail is aware the planning application (ref: CA/22/01845) made to Canterbury City Council is currently being determined and could authorise 261 residential homes in the area which could increase vehicular traffic over the Broad Oaks Level Crossing. Network Rail has not carried out detailed modelling of the traffic impact on the Broad Oaks and Sturry Level Crossings, as it believes it can successfully negotiate an agreement with Kent County Council. Network Rail's initial view is that mitigation may be needed to alleviate the impact on the Broad Oak Level Crossing.
- 1.9 Further, Network Rail considers there is no compelling case in the public interest for the compulsory acquisition of rights over its land. Kent County Council sets out the benefits to the scheme in section 5 of its statement of case; however these benefits are outweighed by the potential risks to the public by allowing additional vehicular traffic over the Broak Oak Level Crossing and interfering with Network Rail's undertaking.

Yours faithfully

*Dentons UK and Middle East LLP*

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**Copied to Kent County Council care of John Farmer, Highways, Transportation & Waste, Kent County Council, 1<sup>st</sup> Floor, Invicta House, Maidstone, ME14 1XX (John.Farmer@kent.gov.uk)**