

**THE TRANSPORT AND WORKS ACT 1992
PROPOSED FELIXSTOWE BRANCH LINE AND IPSWICH YARD IMPROVEMENT
ORDER**

ENGLISH WELSH & SCOTTISH RAILWAY LIMITED

**SUMMARY PROOF OF EVIDENCE
OF
TIMOTHY ROBINSON**

1. I am Timothy Robinson and I am employed by English Welsh & Scottish Railway Limited ('EWS') as General Manager Commercial.

EWS

2. EWS is a dedicated rail freight operator in Britain and mainland Europe running in the region of 5,500 rail freight services per week across all parts of Britain and into Europe, transporting materials such as coal, aggregates, steel and white goods. In addition EWS operates, and plans to expand, in the maritime intermodal market, i.e. the transfer of overseas containers by rail for onward transportation. EWS invested £3million in this area in 2006.

Ipswich Yard

3. EWS occupies land at Ipswich Yard for the support of its rail freight operations in East Anglia. The site comprises two separate parts, the Upper Yard and the Lower Yard. EWS leases both parts from Railtrack Plc, now Network Rail, on two 125-year lease agreements dated 21 February 1996 and 10 April 2001 respectively.

Lower Yard

4. The Lower Yard comprises a let sidings complex and other land and is shown edged blue on the plan (exhibit TR1). The Lower Yard allows rail to road transfers to take place. The Lower Yard has facilities to undertake maintenance of railway vehicles.

Upper Yard

5. The Upper Yard lies to the north of Ipswich Station and to the east of the electrified Network Rail Reception Lines. The Upper Yard is shown edged red on the plan attached at exhibit TR2. Plan at TR3 illustrates the connection between the two Yards.
6. From the nearest Network Rail main line the Upper Yard sidings comprise an electrified double-ended siding, seven double-ended non-electrified sidings, one single-ended road and lastly five non-electrified sidings, of which three are single-ended.
7. Three of the sidings are sub-let to Freightliner Limited. Further details are given below. Full details of each siding are set out at Exhibit TR4 and identified on the plan at exhibit TR5.

Activities at the Upper Yard

8. The Felixstowe Branch Line can only be accessed from the south, therefore freight trains running to and from the Port of Felixstowe that have come from, or are going to, destinations in the north of England and Scotland must be reversed. This involves the locomotive being moved from the front of the train to the other end.
9. This activity is undertaken in Ipswich Upper Yard and Network Rail's reception sidings and is the Yard's main use. The Yard is also used for the short term re-cessing of trains whilst awaiting suitable train slots to become available on either the Main Line or Felixstowe Branch for their onward journey.
10. Another key activity in Ipswich Upper Yard is the splitting or making up of longer trains from portions of shorter trains that are travelling to or from the Port of Felixstowe.
11. Given that the Felixstowe Branch Line is not electrified, freight trains arriving with electric locomotives at Ipswich need to be re-engined with diesel locomotives. This normally takes place on the three electrified Network Rail reception sidings adjacent to the Yard, which are also used by Freightliner and other train companies.

12. The sidings are also used for the exchange of Fuel Oil tank wagons brought by EWS services from Fawley (near Southampton), which Freightliner then transfers to its fuelling point west of Ipswich Station.

Sublease to Freightliner Limited

13. The part of the Upper Yard marked green on plan TR6, containing three sidings, is sublet to Freightliner, a UK rail freight operator who uses the site to support its own rail freight operations in East Anglia.
14. The sidings are used for reversing and the short-term stabling of portions of trains waiting to be made up into longer trains.

CPO

15. FDRC's application proposes the permanent acquisition of parcels 5, 6, 8 and 9 within the EWS lease area. This area equates to 20,514 square metres.
16. FDRC has also applied to acquire permanently and temporarily land containing railway infrastructure which is outside EWS' lease area but which EWS utilises in its capacity as a freight operator ('the branch line CPO area').
17. Hutchison Ports UK Limited has allocated 25 train slots under the cranes at the Port of Felixstowe. The Branch Line is used to access these train slots. Nineteen of these are currently used by Freightliner, four by another freight company, GB Railfreight Limited, and the remaining 2 by EWS.

The effect of the proposed compulsory purchase

18. If the CPO is granted in relation to Ipswich Upper Yard, EWS will be left with 2,495 square metres of land, which is insufficient for EWS to undertake its operations and accordingly it would be required to cease its operations at Upper Yard.
19. A further consequence of the works contemplated by the proposed Order would be to close Lower Yard permanently as its rail access would be severed.
20. The loss of its leasehold interest at Ipswich Yard would prevent EWS being able to continue to honour its contractual commitments to its tenant and would restrict customer development and growth of traffic.

21. EWS plans to extend its foothold in the maritime intermodal market. Key to this is the retention of its facilities at Upper Yard. Given the limited capacity at Felixstowe, EWS welcomes the expansion plans and would wish to compete for the new paths resulting from the increase in capacity, but the compulsory purchase of its interest in the Upper Yard could prevent this and potentially freeze EWS out of the Port of Felixstowe altogether.
22. The effect of the CPO is therefore far more wide-ranging than simply the purchase of the EWS Upper Yard area and is not in the public interest.
23. Furthermore, the compulsory purchase of the railway infrastructure both on a permanent and temporary basis as set out in the proposed Order will have the effect of preventing EWS from operating its rail freight services along the Felixstowe Branch Line. These restrictions are dealt with in the proof of evidence of Nigel Oatway.

Objection 1 – Failure to establish a requirement for Compulsory Purchase

24. EWS is prepared to accept the fact that the proposed works will have an adverse affect on its operations in the short term. Furthermore whilst EWS does not wish rail access to the Lower Yard to be severed, nevertheless EWS is prepared to accept this as an inevitable consequence of the proposed Order.
25. EWS does not accept that FDRC have made out a case that the compulsory purchase of the Ipswich Upper Yard is necessary for the scheme to proceed. Again, Nigel Oatway deals with achieving the works by agreement and by operation of the Railways Act 1993 and so I shall not deal with this point, save to say that EWS is prepared to enter into discussions with FDRC with regard to the proposed works at Ipswich Yard, and details of suggested Heads of Terms are attached at Exhibit TR8.

Objection 2 – Rail Operations at Ipswich Yard

26. Following the pre-inquiry meeting, FDRC provided EWS with a further plan of Ipswich Yard (attached at Exhibit TR9.)
27. The plan identifies the total EWS lease area as being 23,099 square metres and the EWS leasehold interest not subleased to Freightliner as 18,579 square metres. The key to the plan suggests that in future this area will be reduced by over half to 9,010 square metres.

28. The only conclusion which can be drawn from this plan is that FDRC propose to transfer the land compulsorily purchased from EWS to its competitor Freightliner. This view is supported by the draft Service Level Agreement provided by Freightliner (Exhibit TR10). This sets out Freightliner's future role at Ipswich Yard in the event that the proposed Order is confirmed.
29. Accordingly if the order is approved, EWS will not only lose its facilities at Upper and Lower Yard, but they will be provided to its competitor, which will have the inevitable effect of compounding further the commercial disadvantage to EWS of the proposed Order. I believe this to be an improper use of the compulsory purchase powers of the Transport and Works Act, and there is no other reason for retaining the land following completion of the works.

Conclusion

30. FDRC have not demonstrated a compelling case in the public interest for the compulsory acquisition of EWS leasehold interests in Ipswich Yard, as the works can be carried out by agreement or by exercise of Railway Act powers.
31. There is no justification for FRDC to acquire EWS's leasehold land permanently for works that will take a short time to be carried out. Any other purpose for acquiring the land permanently is not within the scope of the powers in the Transport and Works Act 1992.