

**APPENDIX E: Network Rail letters dated 22<sup>nd</sup> April 2016 and 27<sup>th</sup> November 2018**



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22 April 2016

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Dear Ben

#### **RAIL SIDINGS, THORNEY MILL, WEST DRAYTON, UB7 7EZ**

Thank you for travelling down to meet with Jennifer Cox, Senior Surveyor for Freight at Network Rail and myself. We discussed existing and future uses at the site and for clarification I write to confirm this.

Historically the site has been used for the importation and deposit of material (including inert waste material) required in connection with the movement of traffic by rail; The most recent user being D B Schenker Rail (UK) Limited.

This use is permitted under Schedule 2, Part 8, Class A of the Town and Country Planning (General Permitted Development) Order 2015. A Lawful Development Certificate was issued on 2/8/10 to confirm this (Application Number 10/00739/CM).

An Enforcement Notice was issued (reference SB/ENF/11/13) for the unauthorised processing and exporting of waste by road dated 26/6/13. This notice was amended on 14/8/13 (reference TP 2/3/133 MD0002.522) and is attached for your information. This notice provides the requirements for the importation and storage of waste material.

Since the notice was issued the site was vacated and Network Rail cleared and made good the site. The site is currently vacant, Network Rail is seeking to lease the site and have the following interested parties.

Party (FOC = Freight Operating Company)	Term (years)	Use	Freight Tonnage per annum (envisaged)	Conditions
FOC	5 to 10	waste - non-hazardous soils in by road, to landfill by rail, also some processing of spent ballast	200,000 - 420,000	<ul style="list-style-type: none"><li>· None, could proceed immediately using PD rights.</li></ul>
End user / FOC joint bid	Minimum 5	Depot for supply of clean aggregates for onward road delivery, some sub base and road planings	250,000 +	<ul style="list-style-type: none"><li>· Environmental warranty.</li><li>· Minimum 3</li></ul>

				<ul style="list-style-type: none"> <li>· acres.</li> <li>· Would need to be back to back with aggregate supply and rail freight agreements.</li> <li>· Availability and capacity of suitable freight paths.</li> </ul>
FOC / End user	20 with break at 3	Aggregate terminal, recycling station, waste import/export.	200,000 – 300,000	<ul style="list-style-type: none"> <li>· Six months' rent free for set up.</li> </ul>
Hope Construction	20 with break at 15	RMX plant with aggregate terminal and associated uses	205,000	<ul style="list-style-type: none"> <li>· Planning, s t c, subject to survey</li> </ul>
No FOC in place	20	RMX plant with aggregate terminal and associated uses	130,000	<ul style="list-style-type: none"> <li>· Planning, s t c</li> </ul>

Future use will require a planning application unless the use falls within our permitted development rights and for clarification this is described below.

The permitted development rights afforded to railway undertakers are listed in Part 8, Class A, Schedule 2 of the GDPO 2015. This is described as follows:

***Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.***

**“Railway undertaker”**

Pursuant to s262(1) of the 1990 Act, a statutory undertaker is defined in the following terms: “in this Act “statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the Airports Act 1986).”

**“Operational Land”**

By virtue of s263(1) of the 1990 Act, “operational land” means: “in relation to statutory undertakers—

- (a) land which is used for the purpose of carrying on their undertaking; and
- (b) land in which an interest is held for that purpose.

**“Required in connection with the movement of traffic by rail”**

A connection to the railway is required, this can be goods transported by rail, provision of goods or services used by the railway or any other railway related use.

It is therefore clear that the land could be used without the need for planning permission using our permitted development rights, so long as it's in connection with the provision of network services. This could be a business which transports goods using the railway or it could be a business that provides its services to the railway such as a maintenance contractor or suchlike.

Although it is your intention to transport material by rail I understand that you will be applying for planning permission because part of your business is outside of that already expressly granted consent under our permitted development rights.

I hope this give detail of previous, existing and possible future uses at Thorney Mill Sidings. If you require any further assistance please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'LBullock', written in a cursive style.

Lisa Bullock MRTPI  
Town Planner



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27 November 2018

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Dear David

**Planning Application Ref: CM/19/17**

**The importation, storage and onward distribution of rail bournie aggregates together with the erection and use of a concrete batching - Thorney Mill Sidings, Thorney Mill Road, Iver, Buckinghamshire, UB7 7EZ**

Following a request by the Case Officer, Gemma Crossley at Buckinghamshire County Council I set out below Network Rail's (NR) intention should the above planning application be refused. Gemma has also asked for clarification of who the Freight Operating Companies (FOC) referred to within my letter dated 22 April 2016 are.

Our Freight Surveyor has confirmed that if the above application is refused NR will re-market the site given the time that has passed since NR agreed to lease the site to Breedon Southern Ltd (previously known as Hope Construction Materials), and the strengthening of the market since this was last carried out. This time NR would request bids specifically for uses which could be carried out under NR's permitted development rights afforded to railway undertakers listed in Part 8, Class A, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

Taking account of the previous bids, we have received these tend to give rise to higher volumes than the added value uses such as RMX plants. Current urgent demand is significantly inflated by the need to deliver HS2, and every FOC and contractor involved in or bidding for work from that has a requirement for rail served sites, in addition to the "usual" level of need. Known current inquiries include, Freightliner, GBRf, DBC, Hanson, Cemex, AI, Lynch, Walsh, FCC and FM Conway and, if marketed now, we would expect very strong bids from all of the above.

The definition of a Freight operating company (FOC) as defined by the Office of Rail and Road (ORR) is "Companies use the rail network in order to transport goods to their destination. With the road network increasingly under pressure, and the rising cost of road transport, industries and businesses are turning to rail as a cost effective (and environmentally friendly) means of transport." A list of FOC's can be found on their website

<http://orr.gov.uk/about-orr/who-we-work-with/industry-organisations/freight-operating-companies> and on our own website at <https://www.networkrail.co.uk/industry-commercial-partners/rail-freight/move-freight-rail/>.

I hope this provides the information you have been asked to provide. If you require any further assistance please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'LBullock', written in a cursive style.

Lisa Bullock MRTPI  
**Town Planner**