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By email (simon.wood@breckland.gov.uk)

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Dear Simon

Lawful development certificate at Brandon railway station, Mundford Road, Weeting, Norfolk, IP27 0BA under Part 8 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 – Class A (Railway or Light Railway Undertakings) – 3PL/2019/1508/LU

Thank you for the opportunity to provide further detail of the planned construction of a car park facility to serve the railway station at Brandon and how it is wholly permissible within the scope of Part 8 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 – Class A (Railway or Light Railway Undertakings) known hereafter as “the GPDO”.

Proposed development

The proposed scheme will principally comprise an at grade car park to be constructed on operational land pertaining to the railway station at Brandon. The construction will remodel the existing informal car parking area and expand this area within the extent of the operational demise of the railway station to the west; wholly within the boundary of the station lease area. A lease plan setting out the extent of the Greater Anglia station lease area is enclosed as an appendix to this letter for reference.

The need for planning permission

Planning permission is required for ‘development’ which as defined in S.55 of the Town and Country Planning Act 1990 (as amended) (‘TCPA’ hereafter) consists of ‘... *the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of any material change in the use of any buildings or other land.*’

It is acknowledged that the construction and use of a surface car park expansion would constitute a building / engineering operation and, therefore, falls under the definition of ‘development’ meaning that planning permission is required.

Permitted Development Rights

Class A of Schedule 2 Part 8 of the GPDO confirms that ‘*development by railway undertakers on their operational land required in connection with the movement of traffic by rail*’ is permitted development.



It confirms that development is not permitted by Class A if it consists of or includes (c) *the construction or erection otherwise than wholly within a railway station of – (ii) a car park, shop restaurant, garage, petrol filling station or other building or structure provided under transport legislation.*

‘Railway Undertaker’

To qualify for permitted development, Greater Anglia must be a railway undertaker as noted in the GPDO. S.262 (1) of the TCPA confirms that a railway undertaker is a person 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.’

Greater Anglia is a railway undertaker as per the above definition and therefore, qualify to use Part 8 Class A PD rights.

‘Operational Land’

As stated above, it is our view that Greater Anglia is a statutory railway undertaker by definition of S.262 (1) of the TCPA. In accordance with S.263 of the TCPA, GA’s operational land comprises land which is used for the purpose of carrying on their undertaking and land in which an interest is held for that purpose.

S.264 of the TCPA sets out cases in which land is to be treated as not being operational land. This includes that of which is held by statutory undertakers for the purpose of carrying on their undertaking and (a) the interest was acquired by them on or after 6th December 1968 or (b) it was held by them immediately before that but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the Town and Country Planning Act 1962.

However, exceptions to these provisions are where there has at some time been, in force with respect to it, a specific planning permission for its development, and that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertaker’s undertaking. When applied to the land at Brandon station, the site falls within the GA’s leasehold boundary, as shown in the lease plan at Appendix A.

It is considered that ‘operational land’ comprises land which the undertaker now owns for future operations. This is reinforced in *R. v Minister of Fuel and Power Ex p. Warwickshire CC [1957] 1 W.L.R. 861; 8 P. & C.R. 305* which concludes that the words ‘operational land’ include not only land which statutory undertakers have already begun to use for the purpose of the undertaking but land which they intend to use in the future.

It is noted that Network Rail acquired the land in June 1847 and Greater Anglia now holds a leasehold of the land and the wider station area for its current and future operational requirements, following the transfer from Network Rail. The car park expansion site is currently unused, however, was transferred to GA with the intention of being used for future operational purposes pertaining to Brandon station, including the expansion of its existing parking facilities.

For these reasons, it is of our opinion that the car park is situated on operational land for Greater Anglia to exercise their railway undertakings and PD Rights set out in Schedule 2 Part 8 Class A of the GPDO.



'Required in connection with the movement of traffic by rail'

Development under Class A Part 8 of the GPDO is permitted so long as it is required in connection with the movement of traffic by rail.

When applying the 'broad common sense' to construction of the PD rights, provided in *English Clays Lovering Pochin & Co. v. Plymouth Corporation [1973] 2 All E.R 730*, a railway station car park is considered as being required in connection with the movement of traffic rail. It is our view that this same principle would apply to an expansion scheme at Brandon station insofar that a car park would enable car users to park up and continue the rest of their journey by rail. Any doubt of this is removed in Part A.1 which explicitly contemplates car parks that are wholly within a railway station.

It is also noted that the existing park is integral to the operation of the car park and necessary for its function and allow people to arrive by car. Hence, for these reasons the car park expansion is required for the movement of traffic by rail.

'Wholly within a railway station'

Neither the GPDO or the TCPA provide a definition which constitutes a 'railway station'. However, S.83 of the Railways Act 1993 confirms that a station comprises 'any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes'.

Furthermore, there is legal precedent for a broader view of railway stations. In *South Eastern Railway v Railway Commissioners (1880)* it was concluded that '... the term (station) is not in ordinary sense used as a description merely of the actual structures of the station; but as the description of a space actually set apart for, and generally used as, a resting place for traffic, or a place for dealing with it in a particular way, although every part of the space is not covered with or used for passing along or for deposit.'

It is evident in the above legislation and caselaw that the extent of a railway station, by definition, encompasses a broader area of land than just the station building and platforms and includes car parks. For this reason, the proposed car park at Brandon railway station is situated wholly within the railway station.

For ease of reference; a plan setting out the proposed development wholly within the railway station lease demise is set out as an appendix to this letter.

Permitted Development Checklist

It has been demonstrated that Greater Anglia qualifies as a statutory undertaker and is able to the utilise the Permitted Development Rights provided in Schedule 2, Part 8 (Class A) of the GPDO. Both the site and the proposed development satisfy the legal tests required by Part 8 (Class A) whereby the development is on operational land, is required in connection with the movement of traffic by rail and is situated wholly within a railway station. A summary of how the proposals are in accordance with the Part 8 (Class A) is provided in the table below.



GPDO requirement	Rationale
Railway Undertaker	Greater Anglia as the Train Operating Company and their operations at Brandon Station affords them the status as a railway undertaker.
Operational Land	The existing use of the land is an informal car park that provides park and ride facilities at Brandon station which is integral to the operations of the railway station. Furthermore, unused land within the leasehold boundary is deemed to be operational unless deemed surplus to requirements by Greater Anglia or Network Rail.
Required in Connection with the Movement of Traffic by Rail	The development of a car parking would enable additional car users to park their vehicle and continue the rest of their journey by rail, thus the proposals required in connection with the movement of traffic by rail
Wholly Within a Railway Station	Legislation and caselaw demonstrate that a 'railway station' is not confined to the station building but captures the broader area surrounding the station building, including car parks.

Taking this into account it is considered that the proposed development benefits from the deemed planning permission granted by the GPDO and a Lawful Development Certificate can be issued by Breckland Council.

Summary and Conclusions

An application has been submitted to Breckland Council to apply for a Lawful Development Certificate to provide legal confirmation that a proposed car park expansion at Brandon station represents permitted development under Schedule 2, Part 8 (Class A) of the GPDO.

This letter seeks to demonstrate that the proposal in question satisfies the legal tests of the GPDO insofar that the construction of the car park expansion works will be undertaken by a statutory undertaker on their operational land and is located wholly within a railway station. It has also been demonstrated that, once operational, the car park will be required to move traffic by rail. It is for these reasons that we consider that proposed development can be delivered through the permitted development process.

It may be useful to note Greater Anglia has used Lawful Development Certification to provide legal confirmation that car park developments represent permitted developments at the following locations, for which further detail is available on the respective planning portals for the local authorities:

Railway station	Local authority	Planning portal reference
Billericay	Basildon DC	19/00112/LDC
Bury St Edmunds	West Suffolk DC	DC/19/0757/CLP



Manningtree	Tendring DC	07/01991/LUPROP
Witham	Braintree DC	19/00487/PLD

Based on the information contained within this letter and the supporting case law, we kindly request that Breckland Council reviews the above case and grants a Lawful Development Certificate to confirm that the car park expansion scheme at Brandon station can be lawfully constructed using the permitted development rights made available in Schedule 2, Part 8 (Class A) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Yours sincerely,

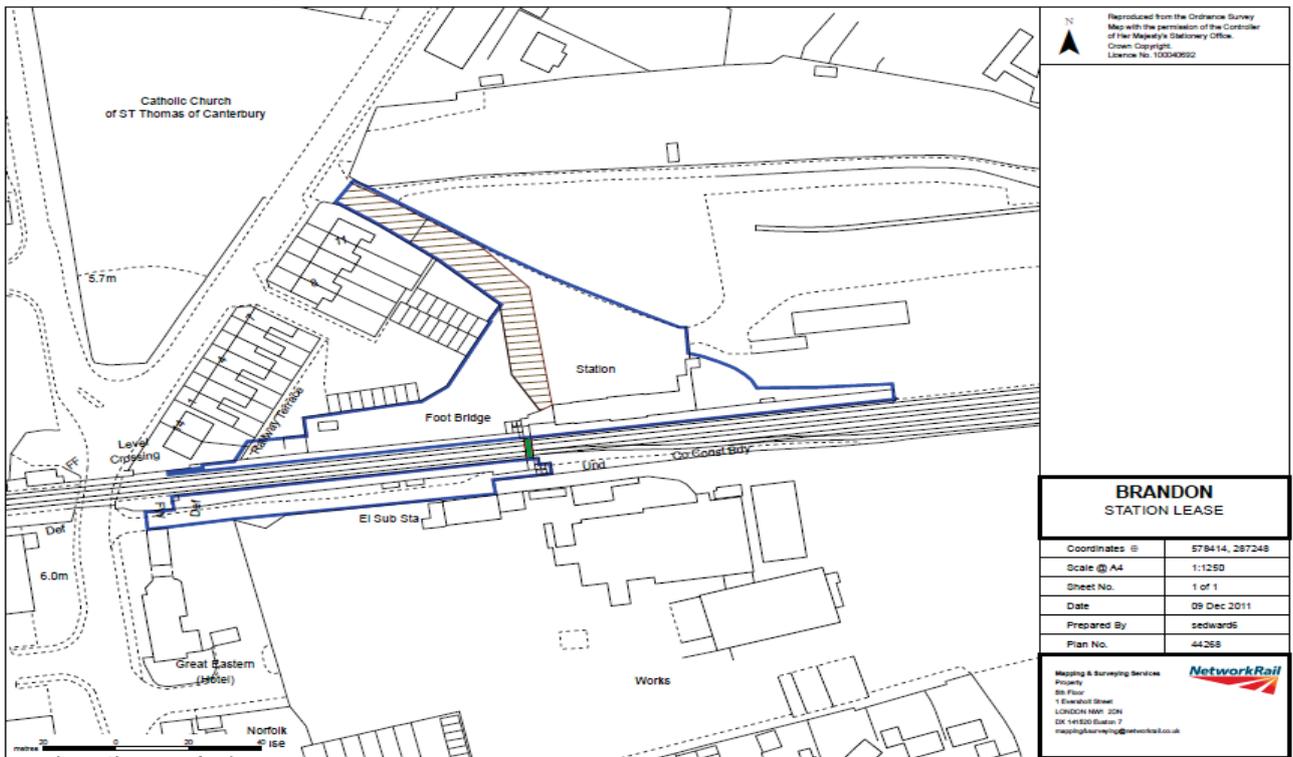


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Appendix – station lease plan



Appendix – proposed construction plan

