

**TRANSPORT AND WORKS ACT 1992**

**TRANSPORT AND WORKS (INQUIRIES PROCEDURES)**  
**RULES 2004**

**THE NETWORK RAIL (LEEDS TO MICKLEFIELD  
ENHANCEMENTS) ORDER 20XX**

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**Appendices to Strategic Case Proof of Evidence**

**of**

**David Vernon**

Document Reference	CD.7.03
Author	David Vernon on behalf of Network Rail
Date	February 2024

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# **Report to the Secretary of State for Transport and the Secretary of State for Levelling Up, Housing and Communities**

**by Paul Singleton BSc MA MRTPI**

**an Inspector appointed by the Secretaries of State**

**Assistant Inspector: Fiona Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**Date: 9 March 2022**

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**TRANSPORT AND WORKS ACT 1992**

**ACQUISITION OF LAND ACT 1981**

**TOWN AND COUNTRY PLANNING ACT 1990**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT  
1990**

**NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY)  
IMPROVEMENTS) ORDER 202[ ]**

**APPLICATION FOR DEEMED PLANNING PERMISSION**

**APPLICATIONS FOR LISTED BUILDING CONSENT**

**APPLICATION FOR CERTIFICATES IN RELATION TO ACQUISITION  
OF OPEN SPACE**

Inquiry Opened on 2 November 2021 and closed on 8 December 2021

Ref: TWA/2/2/116

PINS Ref: DPI Z4718 21 16 NR

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## CASE DETAILS

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### **NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY) IMPROVEMENTS) ORDER 202[ ]**

- The Order would be made under sections 1 and 5 of the Transport and Works Act 1992.
- The application for the Order was submitted to the Secretary of State for Transport on 31 March 2021.
- The Order would confer powers for the construction, operation and maintenance of works on the North Transpennine railway line between Huddersfield and Westtown (Dewsbury) for the purposes of increasing capacity and improving both journey time and the performance reliability of railway services on the route both between Huddersfield and Westtown (Dewsbury) and between Manchester, Leeds and York. The Order would authorise Network Rail to acquire land, subsoil of land and interests in land, including the imposition of restrictive covenants, and to temporarily acquire and temporarily use land for the purposes of the works authorised by the Order. The Order would also confer powers in connection with the construction and operation of the railway.
- At the commencement of the Inquiry there were 34 objections to the draft Order as well as 3 letters of support and 3 other representations. At the close of the Inquiry the number of remaining objections had reduced to 19.

**Summary of Recommendation:** That the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 202[ ] be made in the amended form set out in Inquiry Document INQ-10A.

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### **REQUEST FOR A DIRECTION UNDER SECTION 90 (2A) OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND CONDITIONS TO BE ATTACHED TO THE DEEMED PLANNING PERMISSION**

- The request by Network Rail under section 90(2A) of the Town & Country Planning Act 1990 seeks that the Secretary of State should make a Direction that, in so far as it is required, planning permission shall be deemed to be granted for the development proposed to be authorised in the Order, subject to the planning conditions set out in Appendix D to this report.
  - The request for the Direction was made as part of the application for the Transport and Works Act Order and was submitted by Network Rail on 31 March 2021.
  - No objections expressly concerned with the request for a Direction under Section 90 (2A) of the 1990 Act were received but representations were made by Kirklees Council in its objection to the draft Order about the proposed planning conditions. Subsequent discussions between the Council and Network Rail resulted in their agreement of a revised schedule of draft conditions which were submitted at the commencement of the Inquiry.
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**Summary of Recommendation:** That a Direction be made under section 90(2A) of the 1990 Act that planning permission be deemed to be granted for the development to be authorised in the Order, subject to the planning conditions in the schedule attached as Appendix D to this report.

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## **APPLICATION FOR CERTIFICATES UNDER SECTION 19 OF THE ACQUISITION OF LAND ACT 1981.**

- In its submission of the 31 March 2021 Network Rail also requested that the Secretary of State should issue:
  - a) A number of certificates under Section 19(1)(a) of the Acquisition of Land Act 1981, in relation to the acquisition of open space land, that there will be given land in exchange; and
  - b) A number of certificates under Section 19(1)(b) of the Acquisition of Land Act 1981, in relation to the acquisition of open space land, that the provision of land in exchange is unnecessary.
- Public notice of the Secretary of State's intention to issue the certificates requested was published on the 24 June and 1 July 2021 and the period for objections closed on 16 July 2021.
- Two objections were received with both of these remaining at the commencement of the Inquiry. At the close of the Inquiry only one objection remained.

**Summary of Recommendation:** That the Secretary of State should issue certificates under sections 19(1)(a) and 19(1)(b) of the Acquisition of Land Act 1981 in respect of the various parcels of public open space to be acquired under the compulsory acquisition powers within the Order in accordance with the detailed application set out in Core Document NR26.

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## **APPLICATIONS FOR LISTED BUILDING CONSENT**

- Listed Building Consents are required for the purposes of the proposals included in the application for the Transport and Works Act Order. A total of nine applications for Listed Building Consent in relation to the proposed works were submitted to Kirklees Council in March 2021. Under Section 12 (3A) of the Planning (Listed Buildings and Conservation Areas) Act 1990 these applications have been referred to the Secretary of State for Levelling Up, Housing and Communities for his determination.
  - The nine applications relate to the following buildings or structures:
    - LBC1: Huddersfield Railway Station (Grade I)
    - LBC2: Huddersfield Railway Viaduct (Grade II)
    - LBC3: Wheatley's Colliery Overbridge (Grade II)
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LBC4: Colne Bridge Road Overbridge (Grade II)

LBC5: Mirfield Viaduct (Grade II)

LBC6: Calder (Wheatley's) Underbridge (Grade II)

LBC7: Occupation Underbridge (Grade II)

LBC8: Toad Holes Underbridge (Grade II)

LBC9: Ming Hill Underbridge (Grade II)

- Only one objection was submitted in respect of one of the Listed Building applications and this was a remaining objection at the close of the Inquiry.

**Summary of Recommendations:** That all of the applications for Listed Building Consent should be approved subject to the conditions set out in the schedules included at Appendix E to this report.

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Annex 1) the Template for the Proposed Conservation  
Implementation Management Plans

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## ABBREVIATIONS & GLOSSARY

AOD	Above Ordnance Datum
ALA	Acquisition of Land Act 1981
BoR	Book of Reference
CIMP	Conservation Implementation Management Plan
Coal Drop	Structure to facilitate the transfer of coal from railway wagons into storage hoppers below
CoCP	Code of Construction Practice
CP	Control Period (NR receives funding in 5 yearly blocks known as Control Periods)
CPF	Charities Property Fund
CTMP	Construction Traffic Management Plan
DGA	DG Asset Enterprises Limited
Defra	Department for Environment, Food & Rural Affairs
DMRB	Design Manual for Roads and Bridges
DfT	Department for Transport
Down Line	In the context of the NTPR "down" is a train moving from Manchester towards Leeds
DRL	Dewsbury Riverside Limited
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement submitted with the application for the TWA Order
Exchange Land	Land to be provided in compensation for the acquisition of land designated as POS
FOC	Freight Operating Company
FRA	Flood Risk Assessment
GRIP	Governance for Railway Investment Projects



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Ha	Hectares
HCS	Huddersfield Civic Society
HD1	HD1 Developments Limited
HE	Historic England
HGV	Heavy Goods Vehicle
HU	Huddersfield Unlimited
IRP	Integrated Rail Plan for the North and Midlands published by the DfT on 18 November 2021
KC	Kirklees Council
KCC	Kirklees Cycling Campaign
LBCAA	Planning (Listed Buildings and Conservation Areas) Act 1990
LPSPD	Kirklees Local Plan Strategies and Policies Document
LPADD	Kirklees Local Plan Allocations and Designations Document
km	Kilometres
LBC	Listed Building Consent
LEMP	Landscape and Environmental Management Plan
LPA	Local Planning Authority
m	Metres
mph	Miles per hour
MDL1	Engineer's Line Reference for the Manchester, Dewsbury and Leeds railway line; used to identify individual structures and mileages
MVL1	Engineer's Line Reference for the Manchester Victoria to Leeds railway line: used to identify individual structures and mileages
MVN2	Engineer's Line Reference for the Manchester Victoria to Normanton railway line: used to identify individual structures and mileages
NE	Natural England

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(the) Network	(the) rail infrastructure network of Great Britain
NGN	Northern Gas Networks
NNNPS	National Networks National Policy Statement 2014
NPG	Northern Powergrid
NPPF	National Planning Policy Framework
NPR	Northern Powerhouse Rail
NR	Network Rail Infrastructure Limited
NSR	Noise Sensitive Receptor
NTPR	North Transpennine Railway (the existing route from Manchester to Leeds via Huddersfield)
(the) Order	(the) Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 202[ ]
OBC	Outline Business Case
OLE	Overhead Line Electrification
OPP	Outline Planning Permission
ORR	Office of Rail and Road
Overbridge	A structure which carries a highway, footpath or other amenity over a railway
PIM	Pre-Inquiry Meeting
POS	Public Open Space
PoE	Proof of Evidence
PPG	Planning Practice Guidance
PROW	Public Right of Way
(the) Scheme	the Order scheme
RNEP	Rail Networks Enhancement Pipeline
SoC	Statement of Case
SoCG	Statement of Common Ground
SoM	Statement of Matters
SoS	Secretary of State

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Main Compound	Site from where the main construction and project management is undertaken; usually including office space, welfare facilities and space for storing and processing materials
TA	Transport Assessment
TCPA	Town and Country Planning Act 1990
TfN	Transport for the North (the regional transport body with responsibility for planning and prioritising transport investment)
TOC	Train Operating Company
TRU	Transpennine Route Upgrade
TWA	Transport & Works Act 1992
Up Line	In the context of the NTPR “up” is a train moving from Leeds towards Manchester
Underbridge	A structure that carries a railway over a highway, footpath or other amenity
UK	United Kingdom
W3	The Order Scheme (TRU Project W3: Huddersfield to Westtown)
WYCA	West Yorkshire Combined Authority
YCC	Yorkshire Children’s Centre
2004 Rules	Transport and Works (Inquiries Procedure) Rules 2004
2006 Rules	Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

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## 1. PREAMBLE

- 1.1 On 2 November 2021 I opened concurrent public local inquiries (subsequently referred to as 'the Inquiry') to hear representations and objections regarding the applications by Network Rail Infrastructure Limited (NR) for an Order to be made under the Transport and Works Act 1992 (TWA), deemed planning permission, certificates under Section 19 of the Acquisition of Land Act 1981 (ALA) and 9 applications for Listed Building Consent (LBC), all as detailed in the Cased Details set out above.
- 1.2 The Inquiry sat for 8 days between 2 November and 3 December 2021. There were a number of gaps in the scheduled programme because of the late withdrawal of objections or due to objectors indicating that their negotiations with NR had reached an advanced stage and that they no longer wished to present evidence in support of their concerns. The Inquiry was closed in writing on 8 December 2021.
- 1.3 A Pre-Inquiry Meeting (PIM), held on 7 September 2021, was conducted as a virtual meeting using video-conferencing. There was no discussion of the merits of any the cases for or against the proposals. A note following the meeting was circulated to all interested parties.
- 1.4 Fiona Cullen BA(Hons) MSc DipTP MRTPI IHBC was appointed as Assistant Inspector to provide advice and support in relation to the applications for LBC and the effects of the Order Scheme ('the Scheme') on designated heritage assets. Inspector Cullen attended all the sessions of the Inquiry at which evidence relating to those matters was heard and at which the Applicant's closing submissions were presented. Inspector Cullen has advised me in respect of the assessment of the LBC applications and heritage effects and the framing of my conclusions and recommendations on these matters. All the other conclusions and recommendations set out in the report are entirely my own.
- 1.5 Before and during the Inquiry I made unaccompanied visits to various locations along the railway route between Huddersfield and Westtown, Dewsbury. Inspector Cullen carried out an unaccompanied site inspection of the designated assets within Huddersfield Town Centre affected by the Scheme on 29 November. Inspector Cullen and I jointly undertook an accompanied inspection of all of the listed buildings that are the subject of the LBC applications, other heritage assets likely to be affected by the proposals, and other locations that were the subject of remaining objections at the time of that visit. The accompanied site inspection was conducted over 1.5 days on 1 and 2 December.
- 1.6 The Inquiry was conducted under the Transport and Works (Inquiries Procedure) Rules 2004 (2004 Rules). No objection was made in relation to any legal or procedural requirements in respect of those rules. An

objection was made concerning the adequacy of the Notices served by NR under Rule 15 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (2006 Rules). I deal with this in paragraphs 1.25 to 1.36 of this report.

- 1.7 Joanna Vincent and Brenda Taplin of Gateley Hamer plc were appointed as independent Programme Officers for the Inquiry. Their role was to assist with the procedural and administrative aspects of the Inquiry, including the programme, under my direction. They have been of considerable help in ensuring that the proceedings ran efficiently and effectively but have played no part in the evaluation of the evidence or the preparation of this report.
- 1.8 A set of Core Documents was produced for the Inquiry as listed at Appendix C to this report. References in the report to such documents are shown in square brackets using their specific reference number in that list (e.g. NR01, NR02 etc). A list of Inquiry Documents is included at Appendix B and these documents are also referenced in square brackets by their specific document reference (INQ-01, INQ-02 etc). Electronic copies of the initial representations to the draft Order and other applications, Core and Inquiry Documents, and of the Proofs of Evidence (PoE) in relation to evidence that was presented at the Inquiry are available on the Inquiry website which can be accessed on this link: <https://gateleyhamer-pi.com/en-gb/huddersfield-westtown/inquiry-documents/>

## The Applications

- 1.9 The Applicant is NR which owns and operates the rail infrastructure network of Great Britain (the Network). NR's purpose is to provide a safe, reliable, economic and efficient railway for Great Britain.
- 1.10 NR is primarily responsible for the operation, maintenance, repair and renewal of track, stations, signalling and electrical control equipment. Train services on the Network are operated by train operating companies (TOC) and freight operating companies (FOC). NR, as owner of the Network, grants rights to the TOCs and FOCs to use the track, stations, depots and access through contracts approved by the Office of Rail and Road (ORR). The activities of NR as the Network operator are regulated by the ORR through a network licence granted under section 8 of the Railways Act 1993. The network licence requires NR to secure the replacement and renewal of the Network.
- 1.11 NR has applied to the Secretary of State (SoS) for Transport for an Order to be made under Parts 1 & 5 of the TWA to authorise the construction and operation of that part of the Transpennine Railway Network between Huddersfield and Westtown (Dewsbury). If made, the Order would be known as *The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 202[.]*. It would provide NR with powers to construct a new railway including the upgrading and reconstruction of the

existing railway, railway electrification works, and associated works along this section of the railway, together with station improvements at Huddersfield and the construction or reconstruction of stations at Deighton, Mirfield and Ravensthorpe. The draft Order also includes powers for the compulsory acquisition of land and of rights over land, including the imposition of restrictive covenants, and to use land for the purposes of the works authorised by the Order.

- 1.12 Alongside the application for the TWA Order, NR has requested that a Direction be made, under Section 90(2A) of the Town and Country Planning Act 1990 (TCPA), that planning permission, insofar as it is required for the development proposed under the Order, shall be deemed to be granted. In connection with the works required to listed buildings and structures along this section of the route, in order to deliver the Scheme, NR has submitted nine applications for LBC. These were submitted to Kirklees Council (KC) as local planning authority (LPA) but, under Section 12(3A) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA), they have been referred to the SoS for Levelling Up, Housing and Communities for determination.
- 1.13 As the proposed land acquisitions include land designated as Public Open Space (POS), certificates are sought under Section 19 of the ALA for the purposes of the Order Scheme. Notice that the Secretary of State for Levelling Up, Housing and Communities intended to issue the certificates that have been requested was published on 24 June and 1 July 2021. My recommendation as to whether the Certificates should be issued are set out in section 9 of this report.

## **Objections and Representations**

- 1.14 At the opening of the Inquiry, there were 34 remaining objections to the draft TWA Order.<sup>1</sup> By the close of the Inquiry on 8 December 2021, the number of remaining objections had been reduced to 19<sup>2</sup>. Some of those remaining objectors have indicated that they have agreed heads of terms with NR about the effect of the Scheme on their land or business and that they hope to withdraw their objections once that agreement has been confirmed in formal legal documentation.

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<sup>1</sup> This number includes Reference OBJ44 (Mrs Newton). This objection was submitted in response to the notice of the making of the LBC application (LBC7) for the infilling of Occupation Underbridge (MDL1/10). However, as the grounds of objection are mainly concerned with the loss of the existing private access under the bridge, rather than the effect on the significance of the heritage asset, I have treated this as an objection both to the LBC application and to the draft Order.

<sup>2</sup> This number also includes the Environment Agency (REP03) as their evidence to the Inquiry did include a substantive objection to the draft Order

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- 1.15 Only one objection was received in respect of one of the LBC applications and this remained at the close of the Inquiry. Two objections were received to the notice of the Secretary of State's intention to issue certificates under s19 of the ALA. One of these was subsequently withdrawn leaving one remaining objection at the close of the inquiry.
- 1.16 The Department for Transport (DfT) received 3 representations that were registered as letters of support for the scheme and 3 letters or emails that were registered as 'other representations'. By the close of the Inquiry, both KC and the West Yorkshire Combined Authority (WYCA) had withdrawn their original objections to the draft Order and confirmed their wish to be re-registered as supporters of the Scheme, thereby increasing the number of letters of support from 3 to 5. As a result of the withdrawal of a representation made by Royal Mail, the number of other representations remaining at the close of the Inquiry was 3.
- 1.17 The representation made by the Environment Agency (EA), dated 17 May 2021, was registered by the DfT as being within the 'other representations' category and remained as such at the end of the Inquiry. However, when the EA presented its evidence to the Inquiry it was apparent that its remaining concerns included two significant objections to the draft Order and the Order Scheme. I have treated these matters as objections and have reported on them accordingly. Although the EA representation was registered as an 'other representation' I have included the Agency as a remaining objector for the purposes of this report.
- 1.18 The main grounds of the majority of the remaining objections to the Order relate to the proposed compulsory acquisition or temporary possession of land and the effects of those proposals on the objector's legitimate use of their land holding. Only one of these objectors questions the need for the upgrading of the Huddersfield to Westtown section of the North Transpennine Railway (NTPR) and none of the remaining objectors has seriously challenged the public benefits of the Scheme that are asserted by NR. Two objections from public utility companies also remained in place at the close of the Inquiry.
- 1.19 Objectors and other interested parties referred to in this report are given their full name as well as their representation reference as follows:
- Objectors are referred to by using references such as OBJ01, OBJ02 etc
- Supporters are referred to by using references such as SUP01, SUP02, etc
- Other representations are referred to by using references such as REP01, REP02 etc.
- On the Inquiry website the tab headed 'Proofs of Evidence submitted by Other Parties' includes the text of statements made at the Inquiry by

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Objectors and Interested Parties. These are referenced under their respective OBJ, SUP or REP reference number.

### Statement of Matters

- 1.20 On 10 August 2021 the SoS for Transport issued a 'Statement of Matters' (SoM) pursuant to Rule 7(6) of the 2004 Rules. This sets out the matters about which the SoS particularly wishes to be informed for the purposes of his consideration of the Order and the application for deemed planning permission. The SoM also sets out the matters on which the SoS for Levelling Up, Housing and Communities wishes to be informed in relation to the LBC applications. The issues identified in the SoM provide the basis for the main structure of this report and of my conclusions and recommendations on these matters.
- 1.21 In respect of the LBC applications, the SoM does not include direct reference to the statutory duties which are placed on the decision maker under sections 16(2) and 66(1) (in relation to listed buildings) or section 72(1) (in relation to conservation areas) of the LBCAA when considering proposals that might affect designated heritage assets. I have, however, had regard to these duties in my assessment of the Scheme proposals and in framing my recommendations to the SoS.
- 1.22 The SoM did not expressly include reference to the applications for certificates under s19 of the ALA. In the absence of such a statement, I requested at the PIM that the evidence on these matters should address the clear tests set out within s19 of the ALA (in relation to the Open Space Certificates). My report and conclusions also address those specific tests.

### Environmental Statement

- 1.23 The Order application was accompanied by an Environmental Statement (ES). The ES is made up of: Volume 1, comprising a Non-Technical Summary [NR16]; Volume 2, comprising the Main Environmental Statement [NR16A]; Volume 3, comprising Technical Appendices [NR16B]; and Volume 4, comprising the Figures accompanying the ES [NR16C]. During the course of the Inquiry NR submitted two documents which updated parts of the ES as follows:

**Document INQ-13:** an updated version of ES Volume 2i Chapter 20: Public Open Space. This provides clarification of the area of the specific parcels of POS affected by the Order as subsequently agreed with KC. As a consequence of those corrections, the amendment also deletes an assertion within the original text of Chapter 20 that the Scheme would result in an overall net gain in terms of the area of POS within the red line boundary of the Order application.

**Document INQ-39 Appendix 1:** an amended version of ES Volume 3, Appendix 11-1 Flood Risk Assessment, Clarification Update v4 November



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2021<sup>3</sup>. This version incorporates updates to reflect further information that has been provided by NR to the EA in relation to the Flood Risk Assessment (FRA) undertaken as part of the ES preparation since the last update in March of 2021.

1.24 The adequacy of the ES is considered later in this report.

### **Compliance with statutory requirements**

- 1.25 At the Inquiry the Applicant (NR) confirmed that it had complied with its obligations under the 2006 and 2004 Rules and submitted a document to demonstrate compliance with those obligations [INQ-04]. This document also confirms that the correct procedures have been followed in relation to the application for certificates under s19 of the ALA and the LBC applications.
- 1.26 Only one objection was received which questioned whether the statutory procedures had been complied with. This was raised in the representation, dated 13 May 2021, submitted by Gately Hamer on behalf of Kinder Properties Limited (OBJ15). That representation asserted that the Notice served on Kinder Properties under Rule 15 of the 2006 Rules (Rule 15 Notice) cited only Order Plot Numbers 4-020, 4-041, 4-046 and 4-049 in relation to Kinder Properties' freehold interests and Plot Number 4-046<sup>4</sup> in relation to an occupier interest held by Kinder Properties. The representation suggested that, although other land parcels at the Castlegate Retail Park in Huddersfield appeared to be required for the Scheme, no Rule 15 Notice had been served in respect of those plots. With reference to a plan provided to the owners of the Retail Park by NR in March 2021, the representation set out the objector's understanding that the whole of the Retail Park was to be included in the Order. It asserted that the Rule 15 Notice was deficient in not identifying all of the relevant plots and all the legal interests in those plots.
- 1.27 These concerns were responded to in the PoE of Mr Billingsley who gave evidence on property matters on behalf of NR and in his Appendix 2 which comprised a Witness Statement by Owen Kelly, the person with main responsibility for the preparation and service of the requisite notices of the application for the Order. Paragraphs 18 to 25 of that Statement sets out Mr Kelly's evidence as to what notices were served in respect of the known interests in land within the Castlegate Retail Park required for the Scheme. Appendix 2 also includes sworn affidavits made by Mr Kelly in respect of the service and posting of notices relating to the application

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<sup>3</sup> This revised version of the Appendix 11-1 is appended to the Statement of Common Ground between NR and the EA [INQ-39].

<sup>4</sup> The Plot Numbers relate to the referencing of Plots as set out in the Book of Reference [NR08] and as shown on the Deposited Plans included in Document NR09.

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for the Order and copies of Bulk Certificates of Posting in respect of the notices served on interested parties.

- 1.28 Gateley Hamer were allocated time within the Inquiry Programme to present evidence on their joint clients' substantive objections to the Order.<sup>5</sup> However, on the day before their scheduled appearance I was advised, via the Programme Officer, that good progress had been made in agreeing terms with NR about the proposed temporary access to and use of parts of the Retail Park and that Mr Strafford of Gateley Hamer no longer considered it necessary for any evidence to be presented at the Inquiry.
- 1.29 Gateley Hamer did, however, submit a further email on 11 November 2021 [INQ-44]. This indicated that they had heard statements made by Counsel for NR in respect of Mr Billingsley's evidence and considered it necessary to confirm that they have outstanding concerns about the effective issue of the Rule 15 Notices. These concerns were summarised as follows:
- a) In the case of Kinder Properties Limited only one of two Rule 15 Notices was received.
  - b) In the case of DP Realty Limited a Rule 15 Notice was received but that notice omitted any reference to the car park.
  - c) In the case of R&D Yorkshire Limited, no Rule 15 Notice was received.
  - d) Although not instructed by Cubico Limited<sup>6</sup>, Mr Strafford stated that he was aware that they had not received a Rule 15 Notice.
- 1.30 Gateley Hamer described a position in which the Rule 15 Notices were either partially received or not received at all. They asserted that the point in relation to the car park is that this will be the major area affected by the Scheme construction works but this appears to have been absent from all of those notices and is clearly unknown to the parties that received no notice at all. They also suggested that the Bulk Certificates of Posting appended to Mr Kelly's Statement do not appear to be officially stamped and endorsed by the Post Office.

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<sup>5</sup> Mr Strafford of Gateley Hamer was instructed to act for Kinder Properties Limited (OBJ13), DP Realty Limited (OBJ16) and R & D Yorkshire Limited (OBJ45) all of whom have interests in land or property within the Castlegate Retail Park.

<sup>6</sup> Cubico UK Limited are occupiers of Unit B within the Castlegate Retail Park. An objection on behalf (OBJ43) by Schofield Sweeney Solicitors also alleged that no notices of the making of the application had been served on their clients. No representative of Cubico appeared at the Inquiry and their objection was withdrawn in full on 8 November. In light of that withdrawal I have not reported on that objection.

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- 1.31 Mr Strafford's email confirmed that Gateley Hamer had reached agreement with NR on behalf of their clients and that he hoped, shortly, to have in place a Compromise Agreement. On that basis he did not intend to appear at the Inquiry but thought it useful to clarify his position with regard to the Rule 15 Notices.
- 1.32 At my request NR have produced a further written note in response to this clarification of Gateley Hamer's concerns; this is included in the Inquiry Documents as INQ-34. This note was prepared following NR's further enquiries to Mr Kelly as to the procedures that he followed in respect of the service of the notices.
- 1.33 In relation to the query about the Bulk Certificates Mr Kelly has confirmed that the Post Office do not, as a matter of practice, stamp postal lists for items sent by ordinary first class post. For this reason his company (WSP UK Ltd) have put in place their own procedures to assure the process of serving notices under the Rules and to ensure that the service of notices sent by post has been carried out in accordance with the Rules. Those procedures are set out in paragraph 14 of INQ-34. Proof of posting of some 753 notices served in relation to the Order is shown by the receipt provided to Apogee (WSP's printing sub-contractor) which is appended to INQ-34.
- 1.34 Paragraphs 15-18 of INQ-34 explain that two Rule 15 Notices were served on DP Realty which together mention all of the plots identified in the Book of Reference (BoR) [NR08] as plots in which DP Realty have a legal interest. No notice was served in respect of Plot 4-010 (the car park) as the BoR does not identify DP Realty as having any legal interests in that plot. The notices served on Kinder Properties and R&D Yorkshire did identify Plot 4-010 and this correctly reflects the entries in the BoR.
- 1.35 NR states that Rule 15(1) requires that the Applicant shall serve the requisite notice "*upon all those, other than the applicant and the owner of any Crown interest, named in the book of reference described in Rule 12(8)*". The notices served on Kinder Properties Limited, DP Realty Limited and R&D Yorkshire Limited each correctly respond to the entries shown for those parties in the BoR, including for Plot 4-010 and have, accordingly, been correctly served. NR also notes that it is demonstrably the case that Mr Strafford has been able to represent the interests of his 3 clients in pursuing their respective objections to the Order and in negotiating terms which are acceptable to them.
- 1.36 I have reviewed and considered the submissions made on this matter and am satisfied that there is good evidence that the notices were correctly served in accordance with the requirements of Rule 15(1). In the absence of any other concerns having been raised by any other objector or interested party, I am also satisfied that all of the statutory requirements in connection with the application for the Order, the associated applications and the notification of the date, time and venue of

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the Inquiry have been complied with.

## **Structure of the Report**

- 1.37 This report sets out a brief description of the Order, the Order Scheme and the land covered by the proposed Order and related applications and their surroundings and sets out a summary of the cases for the Applicant, supporters, objectors and those making representations and of NR's response to the remaining objections. My conclusions on each of the applications are set out in section 8 of the report and my recommendations are set out in section 9.

## **2. THE ORDER, ORDER LAND AND ORDER SCHEME**

### **The Order**

- 2.1 The draft Order, as submitted by the Applicant in March 2021 is included in the Core Documents [NR02]. The form and purpose of its principal articles and schedules is explained in the Explanatory Memorandum [NR03] submitted as part of the application.
- 2.2 In addition to authorising works for the construction and operation of the Scheme and the provision of compulsory acquisition powers, the draft Order includes: powers for the temporary stopping up, alteration or diversion of streets (Article 4); the disapplication of various legislative provisions (Articles 5 and 6); and the application of local railway enactments (Article 7). The principal powers relating to the authorised works are in Article 8-12 and the details of the various works packages are set out in Schedule 1. Schedules 18 and 19 set out the Protective Provisions proposed for the protection of various statutory undertakers and other public agencies.
- 2.3 NR has proposed two sets of amendments to the draft Order as detailed in paragraphs 3.112 to 3.113 below. The clean version of the amended document submitted by NR as Document INQ-10A comprises the Order in the form that NR now wishes it to be made.

### **The Order Land**

- 2.4 The Scheme is located wholly within the administrative area of KC and comprises approximately 14 kilometres (km) of the existing railway, extending between Branch Street, 1.7km to the west of Huddersfield Railway Station and Webster Hill which is some 280 metres (m) to the west of Dewsbury Station. The Order Land includes the physical extent of the proposed permanent works including the maintenance rights sought as part of the draft Order, together with land required temporarily for the construction of the works. The Scheme boundary and extent of the Order Land is shown in Figure 1-1 [NR16C- Folder 1].

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- 2.5 Letter references are used in the application documents and Inquiry evidence to describe sections of the route and structures along the Scheme route which are based on references used to describe the UK rail network. The following track sections are affected by the Scheme and are referenced within the ES and other documents:
- MDL: Manchester Diggle and Leeds line
- MVL: Manchester Victoria and Leeds line
- MVN: Manchester Victoria to Normanton line
- BBW: Bradley Junction to Bradley Wood Junction Curve Line
- Overbridges, underbridges and other structures are usually identified in the application documents and NR evidence by their individual structure reference as well as by their commonly known names.
- 2.6 The railway within this section of the NTPR (both existing and proposed) is orientated broadly south-west (Huddersfield) to north east (Dewsbury). It is at an elevation of approximately 110m above ordnance datum (AOD) at its south-western extent, decreasing to around 45m AOD in the north east. The area to the west slopes downwards from the north west to the south east while, to the east, the land is generally flatter within the River Calder valley.
- 2.7 Land uses within the railway corridor comprise the two urban centres of Huddersfield and Dewsbury and the smaller settlements in between. There are various industrial and business uses within the urban fringes of these two main towns and along the floor of the river valley. There are also several leisure facilities within the Scheme area including sports complexes and areas of informal open space.
- 2.8 Several water courses run parallel to or are crossed by the railway at the various locations shown in Figure 1-1 [NR16C- Folder 1]. These include:
- Huddersfield Broad Canal
- Huddersfield Narrow Canal
- River Colne
- Calder and Hebble Navigation
- River Calder
- Unnamed watercourse at Bradley Culvert
- Blackhouse Dike
- Unnamed watercourse at Heaton Lodge junction
- Unnamed watercourse at Colnebridge Culvert
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## **The Order Scheme**

- 2.9 The Order Scheme is a core part of a wider programme of works known as the Transpennine Route Upgrade (TRU), a series of projects to upgrade the existing railway between Manchester, Huddersfield, Leeds and York. The objectives of the TRU are to improve journey times and the capacity of the network between key destinations on the NTPR, improve overall reliability and resilience of the route, and provide environmental benefits through modal shift and the partial electrification of the NTPR.
- 2.10 The Scheme relates to the section of the NTPR between Huddersfield and Westtown in Dewsbury and constitutes Project W3 of the wider TRU scheme. Historically, this section of the route had four tracks through the majority of the Scheme area but, as a result of rationalisation and works to reduce capacity in the 1960s and 1980s, the four tracks have become two along significant sections of the route. At present, this section serves a mix of fast express services, local stopping services, and freight trains, and also shares capacity with the Calder Valley and Penistone lines.
- 2.11 The key elements of the Scheme are the installation of a four track railway across most of the Scheme route, the provision of railway grade separation works at Ravensthorpe, works to the stations at Huddersfield, Deighton, Mirfield and Ravensthorpe, and the electrification of the full length of this section of the NTPR. A full description of the Scheme is set out in Chapter 2 of Volume 2i: Main ES (Scheme Wide Assessment) [NR16A] and the Scheme Drawings are provided in Figure 2-1 in Volume 4 of the ES [NR16C]. Summaries of the main components of the Scheme are also set out in NR's Statement of Case (SoC) [NR28] and Statement of Aims [NR04].
- 2.12 The Order would provide powers for NR to construct and maintain the works as detailed in Schedule 1 to the draft Order. There are some 33 detailed works listed in that schedule but, for the purposes of engineering and construction, the Scheme has been split into six Route Sections as indicated in the plan at Figure 1 of the Statement of Aims [NR04]. The Route Sections and the main works proposed within each of them are summarised below.

### ***Route Section 1 - Huddersfield***

- 2.13 The works proposed include:
- Track upgrade works within the Gledholt and Huddersfield railway tunnels to the west of Huddersfield Station to facilitate the installation of Overhead Line Electrification (OLE).
  - Significant station and track layout improvements at Huddersfield Station to increase the number of platforms from 6 to 7 (including an

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additional through platform).

- Extending the existing and new platforms at Huddersfield Station to accommodate 8 rolling car stock on the NTPR. The platforms are to be extended to the east (Leeds end) to allow trains emerging from the tunnels to the west to access all of the new platforms and to facilitate the reverse movements in the other direction.
- Improving passenger access via the provision of a new footbridge with lifts and staircases and the extension of the existing passenger subway to serve the new platforms.
- The commencement of four tracking works within the confines of the station as part of the four track layout between Huddersfield and Westtown.
- Works to alter the existing trainshed roof, to construct new sections of roof canopy and relocate the existing tea rooms are proposed to accommodate the revised platform layout and the OLE.
- OLE will be installed across Huddersfield Viaduct to the east of the station. Some sections of the viaduct bridge spans will need to be replaced or strengthened and one span is to be widened to accommodate an emergency escape route from the extended platform 2.
- A main construction compound on the former goods yard to the west of the station and a smaller, more temporary compound on the east side of the station with access via St George's Square.

### ***Route Section 2: Hillhouse to Fartown***

2.14 The works proposed include:

- Overbridge/underbridge reconstruction and the provision of railway earthworks between Hillhouse and Fartown to facilitate the installation of the four track layout and electrification of this section.
- At Hillhouse, the construction of new railway sidings for use as a temporary station during the construction works and as a permanent train stabling facility for passenger trains.
- A major construction compound at Hillhouse.

### ***Route Section 3: Deighton and Bradley***

2.15 The works proposed include:

- Reconstruction of Deighton Station in its current location and the reconstruction of overbridges/underbridges to facilitate the four track layout and OLE.

- The station works include the demolition of the existing platforms and reprovision of two new island platforms, the construction of a new footbridge with lifts and staircase, and the provision of a new station forecourt.

#### ***Route Section 4: Colne Bridge and Battysford***

2.16 The works proposed include:

- A new, 1km long section of railway at Heaton Lodge to facilitate the provision of new fast lines within a 6-10m deep cutting to the south of the slow lines (comprising the existing lines within the existing operational corridor); the fast lines being designed to achieve 100 mile per hour (mph) line speeds through this section.
- Works to reconstruct or alter overbridges/underbridges to facilitate the four track layout and installation of OLE.

#### ***Route Section 5: Mirfield and Lower Hopton***

2.17 The works proposed in this section include:

- The reconstruction of Mirfield Station in its current location to facilitate the four track layout including the provision of a new footbridge with lifts and staircase, platform reconstruction, and works to rationalise the operational requirements at the station.
- Works to reconstruct or alter overbridges and underbridges and to alter the Mirfield Viaduct to facilitate the four track layout and the installation of OLE.

#### ***Route Section 6: Ravensthorpe and Westtown***

2.18 The works proposed in this section include:

- The construction of a new section of railway (1.3km in length) to provide four tracks from Mirfield to the new Ravensthorpe East junction by the River Calder where the railway will revert to two tracks.
- The construction of a vertical grade separation between the fast and slow lines at the existing Thornhill LNW junction to take the fast lines over the existing Wakefield lines at Ravensthorpe.
- The construction of a new viaduct (Baker Viaduct) to carry the fast and slow lines over the Calder and Hebble Navigation and the River Calder.
- The relocation of Ravensthorpe Station to a new site to the west of Calder Road.



- The removal, through the construction of a new section of railway, of an existing reverse curve to increase available line speed.
  - The decommissioning of approximately 1.5km of existing railway over the River Calder floodplain, including that running over the Grade II listed cast iron bridges over the Calder and Hebble Navigation and the River Calder.
  - Electrification of the railway along this section.
- 2.19 A summary of the principal interventions proposed within each route section is shown in the diagram in Figure 7-2 of the SoC and full details of the works proposed are set out in the Applicant's SoC [NR-28] and Chapter 2 of the Main ES (Volume 2i) [NR16A]. Full details of the proposed construction methodology are set out in Appendix C to the SoC and in Mr Pedley's PoE.
- 2.20 W12 gauge clearance for freight traffic would be retained over the 14km long Scheme route.

### **Historic Environment**

- 2.21 The TransPennine Route between Huddersfield and Westtown (Dewsbury) (the Route) dates from the Pioneering Age (1825-41) and the Heroic Age (1841-50) of railway development in the UK<sup>7</sup>. It was planned and constructed in phases between 1836 and 1849 by different companies, engineers and architects, characteristic of the wider NTPR between York, Selby and Manchester.
- 2.22 Between Huddersfield and Westtown (Dewsbury), the line is made up of sections of: The Manchester & Leeds Railway, constructed 1836-39, between Ravensthorpe and Heaton Lodge; The Leeds, Dewsbury & Manchester Railway, constructed 1845-47, between Westtown (Dewsbury) and Ravensthorpe; and The Manchester & Huddersfield Railway, constructed 1846-49, between Heaton Lodge and Huddersfield.<sup>8</sup>
- 2.23 This phased construction resulted in the development of a range of railway buildings and structures using different materials and executed in different styles. It incorporates large scale and/or pioneering engineering structures, including tunnels, viaducts and both masonry and cast iron bridges. The complex chain of companies and projects is a typical product of the 'Railway Mania' of the mid-1840s, the height of a period of

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<sup>7</sup> Historic England, 2011 (Revised 2017). Infrastructure: Transport Listing Selection Guide [NR84].

<sup>8</sup> Para 2.1.2 Huddersfield Station – Heritage Assessment (within Core Document NR17)

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commercial confidence and expansion in the railways<sup>9</sup>. In the 1880s and 1890s the route was subject to widening, adding a new, but largely respectful, phase of development. The only part that survives from the late 1830's original line is an approximately 5 mile section between Mirfield and Ravensthorpe.

- 2.24 Within the Scheme Study Area (identified for the purposes of the ES) there are 20 designated and 63 non-designated heritage assets on the line of the Scheme route. There are 286 designated and 361 non-designated heritage assets in off-line locations along the route. The ES also identifies 11 broad historic landscape types.<sup>10</sup>
- 2.25 The proposed Scheme involves direct works to one Grade I listed building and eight Grade II listed buildings, for which applications for LBC have been submitted. It also includes development and works within the Huddersfield Town Centre Conservation Area and within the settings of listed buildings.

### **3. THE CASE FOR THE APPLICANT (NETWORK RAIL INFRASTRUCTURE LIMITED).**

*The material points of NR's case<sup>11</sup> are set out in the following paragraphs. The POE and Appendices submitted by the witnesses for NR are available on the Inquiry website via the 'Network Rail Proofs of Evidence' tab.*

- 3.1 The purpose of the draft Order is to provide NR with the powers required to deliver an upgraded railway between Huddersfield and Westtown Dewsbury (Project W3) as part of the wider TRU programme. The proposed Order would authorise the construction, operation and maintenance of a new railway, including the upgrading and reconstruction of the existing railway, railway electrification works and associated works. It would also authorise the construction of station improvements at Huddersfield and works for the construction or reconstruction of the stations at Deighton, Mirfield and Ravensthorpe.

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<sup>9</sup> Alan Baxter Associates, 2019. TransPennine Route Upgrade Route-wide Statement of Significance [NR103]

<sup>10</sup> Paragraph 8.2.5 -8.2.9 of Statement of Case [NR28]

<sup>11</sup> See Statement of Case [NR-28] and Proofs of Evidence submitted by the witnesses called by NR.

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The works referred to within the Order together comprise the Order Scheme (Scheme).

- 3.2 The Scheme is designed to increase capacity, improve journey times and the performance reliability of rail services, increase the resilience of this section of the railway, and provide environmental benefits through the electrification of this part of the NTPR. The Scheme is described in full detail in Schedule 1 to the draft Order and in the ES and is shown on the application and Order plans included in Core Documents NR09 and NR13.

### **The Aims, Objectives of and Need for the Scheme<sup>12</sup>**

- 3.3 The case for the making of the Order rests on the simple but compelling proposition that the NTPR does not currently meet the needs of passengers or train operators and is unable to fulfil its role as a key rail transport artery serving the great cities and mercantile towns of Lancashire, Yorkshire and the North East. The NTPR is in urgent need of improvement and the Scheme is critical to securing that improvement.
- 3.4 The existing Scheme route is almost entirely two track, with one track in the up direction (towards Manchester) and one in the down direction (towards Leeds). Because of the two track operation fast (express) services routinely catch up with the slower (stopper) services. Both the performance and resilience of passenger services are badly affected by delays and capacity issues. The limited train paths available mean that there is insufficient capacity to increase the number of services using the route and the wider NTPR.
- 3.5 Huddersfield Railway Station has three through platforms. The current layout of the station represents a significant constraint on capacity and on the efficient regulation of passenger services and the network. Removing these constraints is a fundamental part of the Scheme. If the station is not reconfigured to provide an additional through platform and to facilitate the four-track operation of the route these existing constraints would continue to operate as a bottleneck and would serve to constrain capacity improvements on this part of the NTPR.
- 3.6 The existing route is subject to line speed limits which restrict train speeds to 75mph (rather than the 100mph conventional running speed)

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<sup>12</sup> SoC [NR28] -sections 3 and 4; Statement of Aims [NR04] and PoE of David Vernon- sections 3,4,6 and 10

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in the Heaton Lodge area and between the existing Ravensthorpe and Dewsbury Stations.

- 3.7 There are conflicting train movements where the Wakefield lines join the NTPR at Ravensthorpe. These conflicts need to be removed by means of grade separation to create the opportunity for increasing the frequency of train services and to optimise the number of train paths available through the junction between the two lines at Ravensthorpe. If not addressed as part of the Scheme, these conflicts would continue to have a severe adverse impact on the capacity of both the NTPR and the Wakefield lines and would serve to negate the benefits derived from the upgrading works elsewhere on this section of the route.
- 3.8 Train services regularly encounter congestion and delays on the Scheme route, resulting in performance and reliability issues for those services. Up to five different types of service can be using the route at any one time. These are:
- High speed, inter-regional services that typically stop at the hub stations only, such as Manchester, Huddersfield, Dewsbury and Leeds;
  - Local urban services that also stop at local stations such as Deighton, Mirfield and Ravensthorpe;
  - Trains services from other routes, such as the Calder Valley and Bradford route;
  - Freight services wishing to access and use the Scheme route, and
  - Long-distance, high-speed services that provide a direct connection to London.
- 3.9 Peak time crowding on the route has been excessive and is exacerbated by reliability issues. Late or cancelled trains lead to more passengers transferring to other services and add to overcrowding. New and longer trains have recently been introduced but this has not resolved the problems of overcrowding. This issue can only be fully addressed by increasing the number of train paths available to the TOCs and introducing greater flexibility in the management of trains using the route by using the increased size and capacity of the enlarged facilities at Huddersfield Station and other station hubs.
- 3.10 Although journey times have been steadily improving on major railway lines across the country this has not been the case on the NTPR. Average 'fast' speeds on main-line routes should be in excess of 78mph rather than the 60mph achieved on the Scheme route. It is notable that, while a journey from York to Manchester (70 miles) currently takes 74 minutes

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at best, the journey over a similar distance between York and Durham (75 miles) can take 30 minutes or less.

- 3.11 These constraints routinely affect the performance, reliability and capacity of the route to an unacceptable degree such that the Scheme route currently operates as a bottleneck for the entire NTPR. The Scheme is demonstrably necessary in order to enable much needed improvements in passenger and freight services and is a key requirement to facilitate the wider TRU.
- 3.12 Because of these issues and constraints, the NTPR is not well-placed to fulfil the key role that it should play in delivering the levelling up of the northern conurbations and in helping to make them a more coherent and productive economic entity. Up to the outbreak of the Covid 19 pandemic, demand on the route had doubled, since the mid-1990s, to 50 million journeys per year. However, the historic reduction in the carrying capacity of the infrastructure meant that the route had reached the practical limit of its capacity. In its current form and condition the NTPR is likely to act as a constraint to rather than an enabler of building back better with regard to the northern economy.
- 3.13 The Covid pandemic has had a major impact on demand for rail travel although rail use in the North appears to have held up better than the national average. There is some uncertainty regarding the impact on long-term travel demand but the DfT's latest (March 2021) scenarios suggest that demand growth in the late 2020s could be between 68% (worst case) and 97% (best case) of pre-Covid forecasts.<sup>13</sup> Following discussions with the DfT it is anticipated that passenger numbers and demand will return to pre-Covid levels under the medium demand scenario and will continue their original growth trajectory. It is highly likely that use of the NTPR route will have surpassed pre-Covid levels before the TRU programme, including the Order Scheme, is completed and operational in 2028.

### **The Justification for the particular proposals in the draft Order, including the anticipated Transport and Environmental Benefits<sup>14</sup>**

- 3.14 The main benefits of the Scheme are set out in the Statement of Aims [NR04] (section 3.3) and Statement of Case [NR28] and can be summarised as:
- a) Increasing the number of tracks to four throughout the Scheme route

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<sup>13</sup> Figure 3-7 on page 17 of Mr Vernon's PoE

<sup>14</sup> See the evidence of Mr Vernon (benefits), Mr Thomas (engineering) and Mr Pearson (environment) and sections 6 & 8 of SoC.

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to allow for the segregation of both freight and passenger services (slow and express). This will allow these different services, running in both directions between Huddersfield and Dewsbury, to operate without having to use the same lines and will reduce a key conflict on the route.

- b) Increasing the number of platforms at Huddersfield Station to reflect its strategic location on the line and add capacity and increase flexibility to manage services.
- c) The introduction of four tracks and removal of the existing conflicts on this section of the route will enable its use to better manage services to limit any detrimental impacts on the performance of other services when a train failure or other incident occurs.
- d) Improving the flexibility of the route to move services between the up and down lines will improve the resilience of the route to minimise disruptions when incidents occur.
- e) Improving the line speed on the new fast lines so that trains can run at 100mph along this section of the route, thereby improving journey times.
- f) The improvement and upgrading of the four stations along the Scheme route such that these are fully accessible and compliant with modern standards for accessibility by persons of reduced mobility.
- g) The electrification of this section of the route to enable the TOCs to run bi-modal (or hybrid) trains and use the benefit of the electrified section in accordance with NR's Decarbonisation Strategy [NR108] which seeks the electrification of routes where appropriate. TRU was specifically identified in that Strategy and the Scheme, therefore, supports that aim. Electrification will assist with journey times and with performance by allowing trains to accelerate more quickly and brake more efficiently.

3.15 The benefits of the TRU are also set out in the Statement of Aims and SoC and can be summarised as follows:

- a) An improved journey time for Leeds to Manchester Victoria of 43-44 minutes.
- b) An improved journey time for York to Manchester Victoria of 67-69 minutes.
- c) Capability to operate 8 express services an hour on the route.
- d) Capability to operate 6 local services an hour on the route.

- e) Performance on the NTPR to be increased to 92.5% or higher in each monitoring period.
  - f) Freight paths and rights to be retained as existing.
  - g) A contribution to NR's Decarbonisation Strategy and climate policy through electrification.
- 3.16 The Order Scheme delivers on all of these objectives, both for this section of the route and as a major contributor to the TRU objectives as a whole. As the route is the main bottleneck on the NTPR, where significant capacity and performance issues are encountered, the Scheme is a key contributor to the delivery of the wider TRU programme and the full realisation of the aims of the TRU. The Scheme will also deliver four fully accessible stations with step-free access, passenger drop off facilities and blue badge parking. The relocation of Ravensthorpe Station will enable services using the Wakefield lines to stop at that station. This is not currently possible.
- 3.17 The Scheme is essential to achieving the overall aims of the TRU and is critical to the success of the TRU programme and the levelling up ambition. The importance of the Scheme is apparent from the funding it has been allocated as a proportion of that made available for the whole TRU programme; 50% of that total funding has been allocated to upgrade this section of track although it represents less than 10% of the length of the wider TRU route.<sup>15</sup>
- 3.18 The Scheme does not have an individual business case as its economic benefits are linked to the delivery of the TRU as a whole. However, as set out in section 6 of Mr Vernon's PoE, the TRU is of critical importance to the objectives of regenerating the northern cities and towns and of rebalancing the economy. The initial capital cost of the TRU programme is £2.75bn but this is expected to generate an additional £721m revenue. Unlike many infrastructure projects in the north of England, the TRU programme has a positive business case with a predicted Benefit Cost Ratio of 1.44, meaning that, for every £1 invested the Programme is expected to provide a return of £1.44 to the economy.
- 3.19 The need for the Scheme, and the importance of its contribution to the government's levelling up agenda, has assumed even greater significance following the publication, on 18 November 2021, of the government's Integrated Rail Plan for the North and Midlands (IRP) [INQ-33]. This states that the TRU is to be "*significantly expanded to enable Northern Powerhouse Rail*" (NPR)". It is one of the core pipeline commitments set out in the IRP and will become the first phase of NPR. In the current TRU

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<sup>15</sup> Mr Vernon's PoE at paragraph 4.2.3.

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programme the Scheme route is the only section of the line due to be upgraded to four tracks, reflecting the criticality of this part of the route in managing capacity and performance. As set out in paragraph 3.5 of NR's note on the IRP [INQ-32]: *"With further improvement planned through the IRP for the Manchester-Leeds section, and further afield, it is even more important now that the works proposed as part of the Scheme are delivered as quickly as possible."*

- 3.20 A justification for the various works proposed within each of the Route Sections is set out in section 3 of Mr Thomas's PoE. This is summarised in the following paragraphs.

### **Route Section 1: Huddersfield**

- 3.21 The proposed works commence to the west of Huddersfield Station at Cross Church Street. These works are primarily associated with OLE installation, with significant works required at Gledholt and Huddersfield Tunnels (including full track and drainage renewals and the lowering of the track to accommodate the OLE).
- 3.22 At Huddersfield Station (a Grade I Listed Building) works for 4 tracking of the railway will commence. A new platform and track layout is proposed which, together with new signalling arrangements, will allow for much improved management of through and stopping services to reduce train conflicts. The 3 existing platforms will be increased to 4. A new island platform will be built to the north west side of the station to provide an additional through platform and a long terminus platform facing the Leeds direction.<sup>16</sup>
- 3.23 Access across the station will be enhanced, with the existing passenger subway extended to serve the new platform layout and a new footbridge constructed at the Leeds end. A redundant signal and control room and redundant signal gantry will be removed and the existing tea rooms are to be repositioned to facilitate the revised platform layout. This intervention and the proposed alterations to the trainshed roof are described more fully in the section of this report dealing with the applications for LBC.
- 3.24 Historically the adjacent Huddersfield Viaduct (Listed Grade II) carried 5 tracks. The 4 track layout can be accommodated within the existing width of the viaduct. Significant works are, however, required to install the OLE and to repair and strengthen the structure. The deck over the bridge span over John William Street (Span 1) is to be replaced with a similar architectural form but is to be widened on its eastern side to allow

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<sup>16</sup> Paragraphs 3.1.70-3.1.86 of Mr Thomas's PoE



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for an emergency escape route from the extended Platform 2 at Huddersfield Station. The metallic decks over Span 29 (Bradford Road) are to be replaced with new concrete beam decks supported on new, masonry clad abutment walls.<sup>17</sup>

### ***Route Section 2: Hillhouse to Fartown***

- 3.25 The works in this section will generally be contained within the existing railway boundaries which is wide enough to accommodate the four track layout. The two existing tracks will become the slow lines and will be realigned to the north of the corridor with the associated remodelling of Deighton Station (see below). The new fast lines will be constructed to the south of the slow lines. Part of Ridings Underbridge will need to be replaced as it is not wide enough to accommodate the new layout and a new bridge deck is required at Red Doles Road Underbridge so that the new fast lines can be provided. An existing footbridge over the railway at Field House Lane is too low to allow for the OLE and will need to be replaced.
- 3.26 Hillhouse Sidings are to be used as a main construction hub for the duration of the works and a temporary platform will be constructed in this location to facilitate the turn back of trains from Leeds at times when Huddersfield Station is closed for Scheme works. A shuttle bus will operate between this temporary platform and Huddersfield Station when the platform is in use. Permanent stabling sidings will also be provided at Hillhouse to replace sidings that will be lost as a result of the remodelling of Huddersfield Station.

### ***Route Section 3: Deighton and Bradley***

- 3.27 Although four tracks can be accommodated largely within the existing railway corridor the construction of the additional lines will require the reconfiguration of Deighton Station. The station is to be reconstructed in the same general location but with new platforms and new pedestrian access arrangements. As the span between the existing abutment walls is not wide enough for four tracks, and too low for the OLE, Whitacre Street Overbridge is to be replaced, as will the overbridge that carries the A62 Leeds Road over the railway. This new overbridge will be reconstructed on a slightly different alignment, thereby enabling a

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<sup>17</sup> The works to the Viaduct are set out more fully in paragraphs 3.2.7-3.2.18 of Mr Thomas's PoE

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phased closure of the existing bridge in order to minimise the disruption to traffic using this major road.

- 3.28 It is also proposed that the existing (Grade II listed) Wheatley's Colliery Overbridge be demolished and replaced as the spans within its arches are not wide or high enough to accommodate the new track layout and OLE.<sup>18</sup> The existing Bradley junction will also be reconfigured to allow for an increased line speed through the junction and realigned further to the north to facilitate the new fast track geometry to the south.

#### ***Route Section 4: Colne Bridge and Battieford***

- 3.29 From Bradley Junction to the Colne River Valley crossing, the works are constrained with the historic 4-track footprint of the line. Immediately beyond the Colne Viaduct Underbridge, the proposed fast lines will start to diverge from the existing rail corridor. These will then be taken on a new alignment that bypasses the existing Heaton Lodge curve and junction. The geometry of the new alignment will enable fast trains to run at 100mph through this section with the slow lines continuing to use the existing rail alignment.
- 3.30 Beyond Heaton Lodge Junction, the proposed works involve the provision of a single additional line as there are three tracks already within this section. As part of the works within this area, it will be necessary to demolish the central spans of the Colne Bridge Road Overbridge (Grade II listed), which carries the B6118 over the railway, and to replace them with a new single span bridge. This is because the existing bridge arches are not wide or high enough to accommodate the four tracks and OLE.<sup>19</sup>

#### ***Route Section 5: Mirfield and Lower Hopton***

- 3.31 The main works in this section are the construction of an additional track to the existing 3 track layout and the installation of OLE. Mirfield Viaduct (Grade II listed) will be strengthened to accommodate the higher train speeds on the fast lines and OLE equipment will be installed on this and the Wheatley's Underbridge (also a Grade II listed structure). Mirfield Station is to be reconfigured to serve the up and down slow lines from an

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<sup>18</sup> See NR85 page 160 and the Heritage Assessment submitted with the Wheatley's Colliery Overbridge LBC application [NR19].

<sup>19</sup> Further detail on the works in Route Section 4 are set out in paragraphs 3.2.5-3.2.40 of Mr Thomas's PoE.

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extended platform. The current loop line platform will be removed to make space for the new fast lines.<sup>20</sup>

***Route Section 6: Ravensthorpe and Westtown.***

- 3.32 Within this section a new, grade-separated junction will be constructed to carry the new fast lines over the up slow line and the Wakefield lines to remove a critical conflict point on the NTPR. This new flyover section will require the replacement of the existing Calder Road Bridge with a new structure sited slightly to the west of the existing bridges and on a different alignment. Because of the land required for the construction of the new flyover (the Baker Viaduct) over the river and the Calder and Hebble Navigation, it will be necessary to relocate Ravensthorpe Station approximately 200m to the west of its existing position. The new station will have one island platform to serve the NTPR slow lines and will be able to serve trains using the Wakefield line as well. The station will be fully accessible with a new vehicular access and forecourt including blue badge parking.<sup>21</sup>
- 3.33 The railway will revert to its two track formation at a new junction to the east of the relocated station and the new Baker Viaduct at Ravensthorpe East junction. Works are required to the listed Occupation Underbridge,<sup>22</sup> Toad Holes Road Underbridge<sup>23</sup> and Ming Hill Underbridge<sup>24</sup> as part of the track upgrade and realignment.
- 3.34 It is demonstrably the case, and not in dispute on the evidence presented at the Inquiry, that all of the engineering works included within the Scheme are necessary to achieve the Scheme objectives. The improvements in journey time, capacity and reliability simply cannot be achieved without these engineering and associated works.
- 3.35 The electrification of the Scheme route will make a material contribution to NR's Decarbonisation Strategy and climate policy. As Mr Vernon

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<sup>20</sup> See NR85 and Heritage Assessments submitted with the LBC applications for Mirfield Viaduct [NR21] and Wheatley's Underbridge [NR22]

<sup>21</sup> Mr Thomas PoE, paragraphs 3.4.27-3.4.19 and 3.2.41-3.2.53 and 3.4.16-3.4.24

<sup>22</sup> See Heritage Assessment submitted with LBC application for Occupation Underbridge [NR23]

<sup>23</sup> See Heritage Assessment submitted with LBC application for Toad Holes Road Underbridge [NR24]

<sup>24</sup> See Heritage Assessment submitted with LBC application for Ming Hill Underbridge [NR25]

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explains in paragraph 3.6.2 of his PoE, in the context of the UK's Net Zero by 2050 commitment, DfT's Transport Decarbonisation Plan and NR's Traction Decarbonisation Strategy, the design of TRU has been informed by an aspiration to electrify as much of the route as possible. Alongside achieving modal shift to enable more reliable and frequent passenger services, TRU aims to make a strong contribution to the Net Zero agenda, as the largest rail enhancement project in the current portfolio.<sup>25</sup>

- 3.36 The Scheme would deliver the electrification of this route section and provide the critical upgrades needed if modal shift is to be encouraged. In his response to Inspector Singleton's question, Mr Vernon confirmed that the TOCs already have bi-modal rolling stock in their fleets. He advised that some 75% of the trains using the NTPR would be capable of running in electric mode by the time the Scheme is completed in 2026.
- 3.37 No challenge has been advanced at the Inquiry to the core transport planning, engineering and operational case for the Scheme as presented by Messrs Vernon and Thomas, nor to the economic case for the Scheme as set out by Mr Vernon in his evidence.

### **Funding Position<sup>26</sup>**

- 3.38 The ORR conducts a five-yearly review. This sets NR's funding and defines what NR must achieve within the relevant five-year control period in accordance with the Rail Network's Enhancement Pipeline (RNEP) [NR32]. The RNEP was updated in Autumn 2019. The TRU was listed as one of the schemes in Stage 3 (Decision to Design), with the identified outputs of the Scheme being to deliver improved performance, capacity and journey time between Manchester and York.
- 3.39 The TRU was awarded Outline Business Case (OBC) status in April 2020 with a funding allocation of £3 billion (bn). Since the OBC was confirmed further funding has been awarded, with over £1.4bn having been allocated to date to TRU projects progressing into delivery. Some works on the programme started in August 2021, with the commencement of Project W1<sup>27</sup> in the western section of the TRU. The Order Scheme has received £161m to date, with a further recent approval of £264m for the

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<sup>25</sup> The Climate effects of the Scheme are also discussed in sections 6.10 and 6.11 of Mr Pearson's PoE.

<sup>26</sup> See Funding Statement [NR05], Estimate of Costs [NR06] and Section 5 of Mr Vernon's PoE

<sup>27</sup> Manchester Victoria to Stalybridge Junction speed improvements, line speed increases and electrification.

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Scheme to be taken into delivery. The secured funding of £425m will ensure that the Scheme will be ready to be built should the Order be made.

### **The Main Alternatives/Options considered and the Reasons for Choosing the Proposal included in the Scheme**

- 3.40 The purpose and remit of the TRU is to address existing performance issues on the NTPR, to increase capacity on the route and to reduce journey times. The strategic alternatives considered by the Project Team, including other potential rail and strategic highway schemes, are discussed in paragraphs 3.3.1-3.3.17 of Volume 2i (Main Environmental Statement) of the ES [NR16A] and in Section 4.4 of the SoC. The ES concludes that there are no other strategic infrastructure schemes that could address the existing operational constraints on the NTPR or that could deliver the same benefits to the TOCs and their passengers. No party has suggested that there is a realistic alternative to the upgrading of the existing railway line to achieve these objectives.
- 3.41 The scheme design alternatives that have been considered are set out in paragraphs 3.3.8-3.3.163 of Chapter 3 of ES Volume 2i. These include the different options for track layout, the location and form of the grade separated junction at Ravensthorpe, options to minimise the impact on heritage assets and the various structures within this section of the route, options for the installation of OLE in different parts of the route, and options for the location and scale of the construction compounds needed for the Scheme.
- 3.42 In Section 3 of his evidence, Mr Thomas explains the Governance for Railway Investment Projects (GRIP) process which is NR's management and control process for delivering projects on the operational railway. This is the process that the TRU programme has followed and through which the Scheme proposals have been developed, evaluated and refined.
- 3.43 Once the key objectives and outputs for the TRU had been defined and agreed during GRIP Stages 1 and 2, Mr Thomas had lead responsibility for progressing the design and taking this forward into GRIP Stage 3. As part of the GRIP Stage 3 work he carried out a "*comprehensive option identification, option sifting and option selection process*."<sup>28</sup> In his evidence and supporting appendices, he outlined the high level option selection process around four key decision points in the engineering design. These were: (i) the ordering of the fast and slow lines through the route section; (ii) the location and form of the grade separation; (iii)

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<sup>28</sup> Paragraphs 3.1.22-3.1.23 of Mr Thomas's PoE

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the junction layout and operational functionality at either end of the 4 track sections at Huddersfield and Ravensthorpe; and (iv) the platform and track layout at Huddersfield Station. This is all in the context of a Scheme comprising a major upgrading of an existing railway which has to be undertaken in an area of significant physical constraints and with minimum disruption to railway services.

- 3.44 In his responses to my questions, Mr Thomas described the engineering requirements as challenging but not unusual. He indicated that the range and scale of interventions required in a relatively short section of railway (14km) constituted a significant railway build project. He explained how gradient, safety and other tolerances had been constantly rechecked and, where appropriate, tightened to the limits in order to minimise the amount of third party land required and reduce the temporary and permanent effects on neighbouring occupiers.
- 3.45 In his evidence, Mr Pedley detailed the main alternatives considered for the location of the main construction compounds to support the major works at Huddersfield Station and Viaduct and at Ravensthorpe. He has also outlined the options which have been assessed for construction methods, in order to reduce impacts on affected businesses and/or the reconfiguration of the businesses affected by the works, and the construction challenges associated with the grade separation options at Ravensthorpe.<sup>29</sup> Full details of the proposed methodology for the construction of the Scheme are set out in Appendix C to the SoC [NR28].
- 3.46 NR's heritage witness, Ms Rees-Gill explained in her evidence how the significance of the various heritage assets affected by the Scheme has been assessed, the engagement carried out with Historic England (HE) and KC, and the design optioneering, mitigation, compensation, and conservation management and implementation measures which have resulted in the design solutions that have been put forward for approval for the works affecting designated assets.<sup>30</sup>
- 3.47 On Day 6 of the Inquiry she explained in some detail the options which have been explored for the interventions at Huddersfield Station including the proposed new canopies and footbridge.<sup>31</sup> Similarly, she explained the

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<sup>29</sup> See Mr Pedley's PoE; paragraphs 4.3.2-4.3.9, 9.4.3-9.4.4; 9.3.6-9.3.9 and 9.5.6-9.5.7, Table 9-1 of main PoE, and paragraphs 2.1.2-2.1.3 of Rebuttal PoE Closure of Calder Road. See also Document INQ-34: Note on Calder Road Design Refinement, Section 5.2.

<sup>30</sup> See in particular the Heritage Assessments that were submitted with each of the LBC applications [NR17-25]

<sup>31</sup> See Heritage Assessment and the Design and Access Statement for Huddersfield Station [NR15A].

options that were considered for retaining all or part of the Colne Bridge Road Overbridge and Wheatley's Colliery Overbridge before it was concluded that these existing bridges could not accommodate the upgrade to the railway, could not be altered so that they could do so, and would need to be demolished and replaced with new structures.

- 3.48 Further details of the options considered and evaluated can be seen in the Heritage Assessment for each of the LBC applications, in Chapter 3 of Volume 2i of the ES [NR16A], the Heritage Assessment for the Calder and Hebble Navigation and River Calder Underbridges (Appendix 6-5 to the ES Volume 3)[NR16B] and the assessments included in Chapter 6 of the Route Section Assessment in Volume 2ii of the ESA [NR16A].
- 3.49 In respect of the historic environment, the scheme proposals include the development of mitigation embedded within the designs. This is intended to reduce impacts on the historic environment and to the nine listed buildings where the proposed works require LBC, and on the setting of the Calder and Hebble Navigation Underbridge and the River Calder Underbridge. The design process has enabled enhancements to the significance of heritage assets to be made.

### **The Likely Impact of the exercise of the Powers in the draft Order on Local Businesses, Tenants and Occupiers**

- 3.50 The corridor which accommodated the historic four track formation of the Scheme Route is still within NR's ownership and control. Much of the infrastructure that carried that formation is intact. This serves to reduce the amount of additional, third party land required. The Scheme will, nevertheless, have impacts for adjoining landowners and occupiers. Its construction will also have some wider and more general impacts; in particular those associated with the temporary closure or diversion of roads and rights of way and/or traffic management measures needed whilst works are on ongoing.
- 3.51 Throughout the design process NR has sought, and will continue to seek, to reduce the impacts of the Scheme on neighbouring property and land as far as it is reasonably practical to do so. This has been the case, for example, in the design of the Calder Road realignment<sup>32</sup> which resulted in Hargreaves, Newlay and their associated companies (OBJ18-22 and 29) being able to withdraw their objections to the Scheme. It has also been demonstrated in the commitments given by NR to Huddersfield Town Association Football Club (OBJ38) that the construction compound, proposed in close proximity to their training field, can be pulled in to avoid any intrusion on their secure ground or adverse effect on either of

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<sup>32</sup> See INQ-24 Calder Road Design Refinement

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- the accesses to the playing field.<sup>33</sup> That objection has also been withdrawn.
- 3.52 The works proposed as part of the Scheme will require some modifications to the existing highway and Public Rights of Way (PROW). The draft Order gives powers to NR to alter and to stop up sections of PROW but, in the majority of cases, only on the provision of a specified alternative route (draft Order Article 14 and Schedule 4). The construction of the works will inevitably result in some traffic impacts. Those impacts, and the measures proposed within the Order and the application for deemed planning permission to mitigate and manage those effects, have been assessed in Chapter 14 of Volume 2i of the ES and in the Transport Assessment (TA) included as Appendix 14-1 in Volume 3 of the ES [NR16B]. The TA also includes consideration of the predicted effects on the bus network as a result of temporary road closures and temporary diversion of services. These are also addressed in Mr Foulkes's PoE (paragraphs 4.3.7-4.3.13).
- 3.53 NR proposes that these potential effects be controlled under the requirements of a comprehensive Code of Construction Practice (CoCP) which would need to be approved by KC under the conditions to the deemed planning permission. A key element of the CoCP will be a comprehensive Construction Traffic Management Plan (CTMP) which would be prepared in consultation with KC (as the local highway and traffic authority) and approved by them.
- 3.54 Suggested Condition 5 (Appendix D to the report) requires the submission to and approval by KC of the CoCP before any works are commenced on any stage of development. It specifies the minimum scope of these stage specific (Part B) CoCP and that these are to be prepared in accordance with the general principles of the draft (Part A) CoCP which has been submitted for approval as part of the Order (Appendix 2-1 of Volume 3 of the ES) [NR16B]. Part A sets out various supporting documents that will need to be approved as part of the discharge of Condition 5. These include detailed plans for the management of: air pollution and incident control, waste, materials, nuisance, noise and vibration and environmental design. An external communications programme will also need to be approved as part of the CoCP. The CoCP and its supporting documents will ensure a high level of control of the construction works and activities so as to minimise impacts

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<sup>33</sup> See INQ-19 Commitments made to Huddersfield Town AFC



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on local businesses, local residents and the environment as far as reasonably practicable.

- 3.55 The traffic impacts of the Scheme works were addressed in Mr Foulkes's PoE and oral evidence. He also addressed the likely level of disruption associated with the temporary diversions or closures of PROW that are needed during the construction works as detailed in Table 14-10 of Volume 2i of the ES. Mr Foulkes identified the 'worst case' temporary closure as being that at Red Doles (Route Section 2) where the PROW diversion would be likely to add 30 minutes to a typical pedestrian journey using that route but only for the temporary period of the works in that location.
- 3.56 NR has been working with KC to resolve the Council's concerns regarding highway disruptions. A Statement of Common Ground (SoCG) has been agreed with KC [NR/SOCG/1] which refers to the side agreements entered into between the two parties. These include agreements relating to highway assets and how the interface between the Order Works and (i) the Emerald Street Household Waste and Recycling Centre and (ii) the Weaving Lane Waste Facility is to be managed. A summary of the main components of those Side Agreements is set out in INQ-25. Appendix 1 to that document summarises the provisions of the Highway and Network Management Agreement between the parties. As a result of these agreements, KC was able to withdraw its objections and confirm that it now supports the Scheme [INQ-20].
- 3.57 Similarly, NR has been working closely with the WYCA to resolve its concerns regarding the potential effects on the operation of Huddersfield Bus Station, and on bus services more widely as a result of highway works and diversions. A side agreement with WYCA has addressed the relevant issues and enabled WYCA to withdraw its objection and confirm its full support for the Scheme [INQ21 and 21A]. The provisions of that agreement are summarised in Document INQ-23.
- 3.58 Access to business premises will generally be maintained during the works. Details of the commitments made to those remaining objectors who have raised concerns about the effect on their access or the operation of their site and property are set out in section 7 below. This details NR's response to those objections. The commitments made by NR to a number of other interested parties have resulted in the withdrawal of their objections to the draft Order.
- 3.59 The evidence presented to the Inquiry (in particular that of Mr Pedley) demonstrates that NR has sought, as far as possible, to minimise disruption to businesses whose land is required on a temporary basis to facilitate the construction of the works. NR will continue to seek opportunities to reduce any adverse impacts where it is reasonably

practicable to do so. Where landowners and occupiers incur financial loss as a result of the temporary possession of their land, or from temporary obstruction or interference with their private right of access, the affected party would be able to apply for compensation under Article 34 of the Order (temporary possession) and Section 10 of the Compulsory Purchase Act 1965 (interference with private right of access).<sup>34</sup>

**The effect of the Scheme on statutory undertakers and other utility providers, and on their ability to carry out their undertakings effectively, safely and in compliance with any statutory or contractual obligations and the protective provisions afforded to them.**

- 3.60 Specific standards and protective provisions for statutory undertakers, including utility providers, are contained in Schedules 18 and 19 of the draft Order. These provisions are well-precedented in other TWA Orders made by the SoS. They strike the right balance between providing certainty that NR can deliver the Scheme and ensuring that the apparatus and interests of statutory undertakers affected by the delivery of the Scheme are properly protected.
- 3.61 Schedule 19 is in five parts. Parts 2 to 5 are no longer the subject of any remaining objection. Part 2 sets out the provisions for the protection of electronic communications code networks. Part 4 contains provisions for the protection of lead local flood authorities. Part 5 contains provisions for the protection of the Canal and River Trust. The Trust has withdrawn its objection to the Order and did not appear at the Inquiry.
- 3.62 Part 4 sets out the provisions for the protection of the EA. As agreed in the SoCG signed with the EA [INQ-39], NR has proposed amendments to these provision as set out in INQ-09A and INQ10-A. NR requests that the Order be made in the form set out in Document INQ-10A, incorporating those agreed revisions.
- 3.63 Part 1 of Schedule 19 contains the proposed provisions for the protection of statutory undertakers including gas, water and sewerage undertakers (paragraph 3 of Schedule 19). There are 2 remaining objections from National Powergrid (NPG) (OBJ05) and Northern Gas Networks (NGN) (OBJ12). Neither objector appeared at the Inquiry. NR's response to their written objections is set out in Section 7 of the report. NR considers that the proposed provisions do give adequate protection for these undertakers.
- 3.64 The principal purpose of Part 1 of Schedule 19 is to regulate the removal of existing utility apparatus from parts of the Order Land (to enable the

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<sup>34</sup> See Mr Billingsley's PoE Section 4 and NR51.

authorised works to be carried out) and to ensure the provision of replacement or alternative apparatus on, over or under land within the Order limits. These provisions have been drafted to enable the statutory undertaker to continue to operate its undertaking, using the alternative apparatus to be provided; see paragraph 6 of Part 1 of Schedule 19. Paragraphs 5-12 of Part 1 of the schedule provide what NR considers to be a conventional range of protections to the public utility providers. These would apply in conjunction with the 'lift and shift' provisions of paragraph 6 of Part 1.

- 3.65 Where the diversion of or other works to utilities are required as a result of the Scheme, the draft Order provides NR with the necessary land and powers to enable those works to be undertaken. The land and powers required for those purposes have been the subject of discussions between NR and utility undertakers concerned during the preparation of the draft Order. These discussions sought to ensure (as far as reasonably practicable) that the necessary land is available to enable the diversions and/or other works to be carried out in a timely manner, at an early stage in the overall construction programme, and without prejudicing the timely and economic delivery of the Scheme.
- 3.66 Both of the remaining public utility objectors have been in discussion with NR. NR expects that those discussions will continue after the close of the Inquiry with a view to agreeing any additional protective measures that might be needed. At present, however, neither objector has put forward any justification for amending the current protective provisions as set out in Schedule 19.

**The Adequacy of the Environmental Statement having regard to the 2006 Rules including consideration of the impacts on Noise and Vibration, Air Quality and Climate Change.**

- 3.67 The process and methodology for the preparation of the ES submitted with the application is set out in Chapter 3 of the ES Volume 2i (Scheme-Wide Assessment) in Core Document NR16A. This confirms that the ES has been prepared in accordance with an Environmental Scoping Report submitted to the DfT on 19 June 2019 and a Scoping Opinion issued by the DfT on 31 July 2019. The ES has been prepared in accordance with the 2006 Rules.
- 3.68 The ES considers all of the construction and operational impacts of the Scheme and meets the requirements of the 2006 Rules. It has been carried out with full regard to all relevant legislation, guidance and best practice. This is confirmed by NR's witnesses who gave evidence at the Inquiry on environmental matters. Each of these witnesses included a statement within their PoE that, in their professional opinion, the

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potential environmental effects which are relevant to their expert evidence have been properly and adequately assessed in the ES.<sup>35</sup>

- 3.69 The ES follows a logical structure, using a number of themed chapters to assess the potential environmental effects of the Scheme, with many of these being assessed both for each of the six route sections and on a Scheme wide basis. Each chapter of the ES reviews the relevant legislation and guidance relating to that topic area and adopts best industry practice in the assessment of the effects. In each case the ES assesses the baseline conditions and describes the mitigation that has been embedded within the scheme design.
- 3.70 It then assesses the potential effects on the receptors identified in that chapter during both the construction and operational phases of the Scheme. It outlines the additional mitigation that is to be adopted and assesses the residual impacts of the Scheme which are summarised at the end of each chapter. ES Chapter 22 considers cumulative effects, having regard both to the likely intra-scheme effects (the combined effects of a number of different environmental factors on a single receptor or resource) and inter-scheme effects (the combined impact of a number of different projects within the vicinity of and in combination with the Scheme on a single receptor or resource).
- 3.71 Following its negotiations and agreements reached with KC, NR submitted a revised Chapter 20 to ES Volume 2i [INQ-13]. A revised Appendix 11-1 has also been submitted to provide further clarification of the information provided to the EA in support of the FRA undertaken as part of the ES. With those updates in place, and with KC's objection and the EA's objection on flood risk grounds having been withdrawn, there are no remaining objections or concerns raised by interested parties in respect of the scope or adequacy of the ES. The ES confirms that all relevant procedural requirements of the 2006 Rules have been complied with.
- 3.72 The impacts of noise and vibration are assessed within in ES Chapter 8 and are summarised in the PoE presented by Mr Lawrence. That evidence, which is unchallenged, demonstrates that the assessment has been carried out in accordance with the relevant legislation and guidance and has followed best practice in order to provide an appropriate assessment of the likely impacts of the Scheme.
- 3.73 The assessment shows that, without appropriate mitigation, there would be some potential significant adverse noise effects arising from construction activities and occasional night-time working, and from construction traffic. There are no predicted significant effects arising from vibration. Mitigation measures, as set out in the CoCP, will include noise barriers at eight locations, non-statutory noise insulation and site

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<sup>35</sup> See PoE of Messrs Pearson, Foulkes, Machin and Lawrence and Ms Rees-Gill

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management. With these in place, no significant residual noise or vibration effects are predicted within the Scheme footprint. Temporary short-term, significant adverse effects in the wider study area due to construction traffic and temporary road diversions are, however, predicted.

- 3.74 During the operation of the Scheme, with mitigation in place, significant adverse effects will be avoided at all noise sensitive receptors (NSR) in terms of internal amenity. External amenity will be maintained where noise barriers are introduced to mitigate potential adverse effects. In relation to 14 NSR, where the introduction of noise barriers is not feasible, residual significant impacts on the external amenity of those properties is predicted. Condition 13 of the proposed planning conditions would require KC's approval of the detail of all noise attenuation measures before works are commenced.
- 3.75 The impacts of the Scheme on air quality are set out in ES Chapter 7 and are considered in the PoE presented by Mr Pearson. Mr Pearson's evidence confirms the adequacy of the assessment in relation to the impacts on air quality and is also unchallenged.
- 3.76 Chapter 7 shows that the Scheme construction works could, potentially result in significant, short and long-term impacts at residential and non-residential receptors due to construction dust. However, with the best practice and other measures that would be secured through the CoCP, there would be no residual effects from construction activities or construction traffic. No significant operational effects on air quality are predicted. The use of electrified bi-modal trains on the Scheme route following completion of the works would result in a beneficial impact on air quality but this is not predicted to be a significant effect in Environmental Impact Assessment (EIA) terms.
- 3.77 ES Chapter 17 sets out NR's assessment of the potential effects on climate change. This shows that the Scheme construction is estimated to make a very small contribution (0.014%) to the fourth carbon budget (2023 to 2027). The majority of these emissions would be comprised in the OLE which is to be installed (this being manufactured of steel). At the level predicted, the carbon emissions resulting from the Scheme are not considered to be significant in EIA terms. The current emissions from diesel units using the Scheme route are considered to be small scale. There would be a significant decrease in those emissions as a result of the ability to use bi-modal trains. With the expected reduction in the UK's reliance on fossil fuels for electricity generation, there is the potential for the Scheme to be carbon neutral or to achieve net zero carbon by 2050. This in line with UK government targets.
- 3.78 The unchallenged evidence presented by Mr Pearson confirms that the assessment has outlined all the potential impacts of the Scheme on

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climate change. Chapter 17 does, therefore, represent an adequate assessment in this regard.

- 3.79 The assessment methodology in relation to the historic environment is based on guidance in the Design Manual for Roads and Bridges 2020 (DMRB), as this was deemed suitable given the linear transportation Scheme.<sup>36</sup> The assessment has been carried out in line with current national and local policy and guidance. The methodology adopted for the assessment within the ES was agreed with KC and HE.
- 3.80 A thorough, detailed and strategic assessment of the impact of the proposals and the historic environment has been undertaken. This is both in terms of the Scheme being subject to EIA, as reported in the ES, and in respect of the detailed assessments of the impact on the 9 listed buildings that are the subject of LBC applications. The assessments are set out in the Heritage Assessments that accompany the LBC applications and in Chapter 6 of the ES.
- 3.81 Paragraphs 2.1.16 to 2.1.17 of Ms Rees-Gill's PoE explain that the historic environment assessment within the ES is sufficient to enable an understanding of the value and significance of the historic environment; the identification of heritage assets affected and where appropriate mitigation measures are required.
- 3.82 The assessments conclude that the development and works would result in harm to the significance of heritage assets. Where substantial harm has been identified, NR submits that this harm is necessary to achieve the substantial public benefits accruing from the Scheme and the harm would be outweighed by those benefits. Where less than substantial harm has been identified, this is outweighed by the public benefits generated by the Scheme. This is consistent with the requirements of the LBCAA [NR59], the National Planning Policy Framework (NPPF) and Policy LP35 of the Kirklees Local Plan Policies and Strategies Document (LPSPD) [NR39].
- 3.83 A summary of the mitigation measures proposed for the entirety of the Scheme Route is set out in Chapter 23 of ES Volume 2i. This follows the mitigation hierarchy of avoid, reduce, mitigate and compensate. As noted in section 6 of the ES Non-Technical Summary [NR16], following the implementation of the mitigation measures, significant adverse

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<sup>36</sup> Paragraph 3.3.3 of Ms Rees-Gill's PoE

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residual effects are anticipated during construction for the following environmental topics:

- Historic environment
- Landscape, townscape and visual impact
- Traffic and transport
- Population and human health
- POS

3.84 Following the implementation of the mitigation measures, significant adverse residual effects during the operation of the Scheme are anticipated for the following environmental topics:

- Historic environment
- Noise and vibration
- Landscape, townscape and human health
- Population and human health.

3.85 As set out in the SoC and the evidence submitted to the Inquiry, NR submits that these residual effects are clearly outweighed by the need for substantial benefits of the Scheme. It should be noted that the operation of the Scheme is also predicted to have significant beneficial residual effects in association with geology, soils and land contamination and socio-economics.

**The justification for the disapplication of legislative provisions, in particular flood risk activity and the surrender of existing environmental permits and what agreements have been reached with the EA in that regard.**

3.86 A detailed explanation of the proposed legislative provisions in Article 5 of the Order is set out on pages 2-4 of the Explanatory Memorandum to the draft Order [NR3]. Section 3 of the SoCG with the EA [INQ-39] records the agreement reached with the EA concerning the disapplication sought in Article 5(1) in respect of the requirement for an environmental permit in relation to the carrying out of a relevant flood risk activity. There are no remaining objections to the inclusion of this article within the Order. As the Explanatory Memorandum records, there are many precedents in

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previously made Orders for the inclusion of such disapplication provisions in TWA Orders for rail improvement works.

- 3.87 The EA has a remaining objection about Article 6. NR's position on this matter is set out in its response to that remaining objection in section 7 of the report.

### **The tests for compulsory acquisition**

- 3.88 The principal purpose of the Order is to authorise the works required for the delivery and operation of the Scheme. The lands included within the Order limits are required for that purpose. All of the land parcels affected by the proposed compulsory acquisition are identified in the deposited plans included in Document NR09 and in the BoR [NR08]. Details of the particular purpose for which each individual plot is required are set out in the Schedule of Land and Rights which is at Appendix D to NR's SoC [NR28].
- 3.89 In his evidence, Mr Billingsley responds to each of the objections to the compulsory acquisition powers sought in the draft Order. In each case, he summarises the purpose for which the land or rights are required.<sup>37</sup> The evidence presented by Messrs Thomas, Pedley and Williams provide the design, engineering and construction management justification for the proposed compulsory acquisition, temporary possession and acquisition of rights. Mr Pearson's evidence and that of the other environmental witnesses<sup>38</sup> set out the justification in respect of the need for appropriate works to mitigate the potential environmental effects of the Scheme.
- 3.90 The Order has been drafted to ensure that it includes sufficient land and rights to provide certainty that the Scheme can be delivered. Where it has been possible to identify that land parcels are required only on a temporary basis, or that only the acquisition of rights or the imposition of restrictions is needed, that has been provided for in the draft Order (see Articles 29(4 & 5) which are to be read with Schedule 14; Article 30 which is to be read with Schedule 13; Article 32(2) which is to be read with Schedule 15; and Article 34 which is to be read with Schedule 16).
- 3.91 Mr Thomas's evidence explains that the Scheme is highly constrained by the operation of the existing railway; the development that has taken

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<sup>37</sup> See in particular his Appendix 2 which sets out in tabular form the specific land parcels in which each objector has an interest and the nature of the powers sought in respect of each of those parcels.

<sup>38</sup> Mr Lawrence and Mr Machin



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place in close proximity to the historic railway corridor and other physical constraints along the Scheme route.<sup>39</sup> It is clear from this evidence that the engineering constraints, within which the Scheme has had to be designed, are significant. There is no fat that can be cut in terms of further flexing the design, safety and operational standards that the Scheme has to meet.

- 3.92 The draft Order provides for compensation for affected parties where land or rights are acquired or restrictions imposed, or where any loss or damage is suffered as a result of the land being used temporarily for the construction of the Scheme. The compensation arrangements provided within the Order are described in full in Section 4 of Mr Billingsley's PoE.
- 3.93 NR considers that there is a compelling justification for the Scheme on transport planning grounds as it will deliver significant transport, social and economic benefits. The design specification and operational output required, and the need for the engineering works that would be authorised by the Order to deliver that specification and operational output, is described in Section 3 of Mr Thomas's PoE. The options that have been considered, settling the engineering design through the GRIP process, are summarised in Section 6 of the SoC and detailed in Appendix B to that document. The strategic, policy and business case is set out in Sections 3 to 5 of the SoC and in the evidence presented by Mr Vernon and Mr Rivero.
- 3.94 Both the TRU and the Order Scheme enjoy express support from government, with that support having recently been reinforced by the publication, in November 2021, of the IRP. Funding to enable the Scheme to be implemented has been committed by the government, as set out in the Funding Statement [NR05] and in the letter from the DfT

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<sup>39</sup> See for example Figures 3-35 and 3-36 at page 79 of Mr Thomas's PoE re the physical constraints and environmental considerations in the Ravensthorpe area.

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dated 22 September 2021 included at Appendix 1 to Mr Vernon's PoE. This confirms that:

- a) As of September 2021, NR has received authority to commit over £1.4bn to develop, design and deliver the TRU programme.
- b) Further significant funding is forecast, prioritised and budgeted for within the rail upgrade programme for the remainder of the current Control Period which runs until the financial year 2023/24.
- c) Further funding for rail upgrade programmes will then be unlocked when the next scheduled Programme Business Case is reviewed in 2023.

3.95 The Scheme is, therefore, considered to be funded and the Transpennine Route Upgrade West Alliance, which will have responsibility for undertaking the construction of the Scheme, is already in place.<sup>40</sup> The timescale envisaged for the delivery of the Scheme is set out in Section 7.2 of the SoC and can be summarised as:

- TWA Order and Related Consents 31 March 2021 – March 2023
- GRIP Stages 4 & 5 (detailed design) currently underway
- Advance (enabling) Works Summer 2022 (start)
- Main Construction Works Spring 2023 (start)
- Scheme Entry into Service End of 2026 (planned).

3.96 The document entitled 'List of Consents, Permissions and Licences under Other Enactments' [NR10], submitted with the application, details the other consents and licences that are required in addition to the TWA Order. This was updated by the submission of Document INQ-11 which includes more recent correspondence with Natural England (NE) regarding the potential effects of the works on protected species.

3.97 The deemed planning permission, open space certificates and LBCs were all considered at the Inquiry and are before the Secretaries of State for their determination. As confirmed in Document INQ-11, NE has issued letters of comfort which, NE states, fulfil the same purpose as 'Letters of No Impediment' with regard to the licences required under the Conservation of Habitats and Species Regulations 2010 and the Protection of Badgers Act 1992.<sup>41</sup> There are no other licences or

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<sup>40</sup> Paragraph 1.1.8 of Mr Pedley's PoE.

<sup>41</sup> See INQ14 and 14A including the email from NE to NR dated 29 October 2021. Letters of No Impediment are normally issued in relation to proposed licence applications that are

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consents required for the Scheme and no other matters which would be likely to act as an impediment to the implementation of the authorised works.

3.98 The following conclusions can, therefore, be drawn:

- a) The land and rights included in the draft Order are necessary to deliver the Scheme.
- b) There are no impediments to the delivery of the Scheme.
- c) The compulsory purchase powers are sought as a last resort to provide certainty that the Scheme can be implemented in accordance with the Scheme Plans and within a reasonable timescale.
- d) There is a compelling case in the public interest to justify the SoS conferring powers to compulsorily acquire the land and rights included within the Order limits and for which the draft Order seeks the powers of compulsory acquisition, and to temporarily possess and to use land for the purposes of the Scheme.
- e) That the railway purposes for which the Order is sought are in the public interest and are sufficient to justify the interference with rights protected by the Human Rights Act 1998

***The alternatives to compulsory acquisition considered by NR for meeting the objectives of the Scheme***

3.99 In section 5 of his PoE, Mr Billingsley explains that, as part of the consultation and engagement process in respect of the Order application, NR has consulted and sought to engage with all those parties who held land interests that were at risk of being included within the Order, thereby presenting the opportunity for discussions on land acquisition at that stage of the process. NR has made its team available for discussions with land interest holders throughout the design period. NR has been willing to discuss early acquisition of property throughout that period. Discussions have continued up to and since the Order application was submitted and during the course of the Inquiry.

3.100 In his PoE and in his oral evidence to the Inquiry, Mr Billingsley explained that, because of the linear nature of the railway Scheme, most of the land required forms only a part of the land interest. In most cases, the requirement is for a linear section of land adjoining the railway corridor

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needed alongside a Development Consent Order for a Nationally Significant Infrastructure Project made under the Planning Act 2008.

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with the main landholding remaining with the existing interest owners. Those interests, including freehold and leasehold interests and rights, may be held by the owner. Most of the interests are not capable of being transferred in part without the agreement of the holders of interests in the land. For example, most leaseholds include provisions that preclude the transfer of only a part of the lease. Similarly, complications are likely to arise if part of a freehold was to be transferred by agreement to NR whilst a lease remains in place.

- 3.101 These issues can create practical and legal difficulties in securing the necessary interests by agreement in advance of the making of the Order. However, it is notable that, although there are some 753 separate legal entities that hold an interest affected by the Scheme, only 47 of these parties objected to the draft Order.<sup>42</sup> The ongoing negotiations which NR have undertaken with affected parties have resulted in the number of remaining objections at the close of the Inquiry having been reduced to 19. Amongst that remaining 19 objections are a number of parties with whom NR has now agreed heads of terms for the acquisition or temporary possession of their land and who are expected to withdraw their objections once legal documentation has been finalised. It can, therefore, be seen that NR is seeking compulsory acquisition powers as a last resort.
- 3.102 The making of the Order in the form now sought would not preclude land being acquired thereafter by agreement, rather than through the exercise of the compulsory powers, where satisfactory terms can be agreed. Neither would it prevent NR from agreeing with an affected landowner to possess and use their land temporarily rather than exercising the compulsory powers – for example, by entering onto land pursuant to its temporary possession powers under Article 34 – to carry out the works while discussions are ongoing about the necessary extent of any permanent acquisition required for the operation of the Scheme. Where negotiations are ongoing, this approach could be adopted in preference to

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<sup>42</sup> Paragraph 6.1.1 of Mr Billingsley's PoE.

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the early service of a General Vesting Direction or Notice of Entry to bring the compulsory acquisition powers into effect.

**The extent to which the Scheme is consistent with the National Planning Policy Framework, national transport policy and local planning, transport and environmental policies.**

- 3.103 This matter is addressed in detail in Section 5 of the SoC [NR28], the Planning Statement [NR14] and in the evidence presented by Mr Vernon and Mr Rivero.
- 3.104 In Section 6 of his PoE, Mr Vernon draws attention to the government's Levelling Up objectives and explains that this calls for multi-faceted public interventions and that investment in infrastructure plays a key part in this agenda. This is reflected in the National Infrastructure Strategy of November 2020 [NR31] which states that a

*"well designed public transport infrastructure is fundamental to the operation of any city. London is the only city in Europe where you can access more local services by public transport than by car. But the story is different in regional cities, where access to those same services by public transport lags behind continental peers. This is why the government will invest in the North, Midlands and South West to help rebalance the UK economy."*

Further support for the Scheme is given in the Transport Investment Strategy [NR37] which states that the government is committed to playing its part in building the Northern Powerhouse and supporting every part of Britain to reach its potential (paragraph 1.25).

- 3.105 As noted above, the recently published IRP gives added importance and priority to the TRU by announcing the government's intention that this should form the first phase of NPR and should be taken forward as soon as possible.
- 3.106 At the regional level, the Scheme derives support from: the Northern Transport Strategy, published by HM Government and Transport for the North (TfN) in 2015 [NR47]; TfN's Strategic Transport Plan of 2019 [NR42]; WYCA's Transport Strategy (2017) [NR 43]; and the Leeds City Region Strategic Economic Plan (2016) [NR44]. The Scheme also finds strategic support in local planning policy, specifically within Policy LP19 (Strategic Transport Infrastructure) of the LPSPD [NR39]. This policy states that proposals will be encouraged where they assist in bringing forward strategic transport infrastructure. The policy identifies the

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upgrading of the NTPR between Leeds and Manchester as forming part of that strategic infrastructure.

- 3.107 Section 5.3 of the SoC and Sections 6 & 7 of Mr Rivero's PoE contain a detailed assessment of the Scheme against national and local planning policy. Although the request for deemed planning permission under s90(2A) of the TCPA does not fall to be determined in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004,<sup>43</sup> NR submits that the Scheme is in accordance with the broad thrust of local planning policy and attracts support from both the NPPF and the development plan. Similarly, although the Scheme is not a Nationally Significant Infrastructure Project, NR considers that the National Networks National Policy Statement 2014 (NNNPS) is relevant because the Scheme and TRU would improve part of the national rail network. Given that it will remove a key bottleneck on that part of the network and help to facilitate an increase in capacity on the NTPR, it is considered that the Scheme is consistent with government policy objectives as set out in the NNNPS.<sup>44</sup>
- 3.108 The Scheme involves development within the Green Belt at Heaton Lodge and Steanard Lane, Mirfield as shown on the plans of the Scheme proposals superimposed on the plans showing the extent of the Green Belt in these locations [INQ-17A and 17B]. The works at Heaton Lodge are needed for the creation of the new Heaton Lodge Curve, an improved alignment for the new fast lines to enable trains to run at 100mph. This intervention is critical to delivery of the journey time improvements which are one of the aims of the Scheme. The vast majority of this new infrastructure will be in cutting and will, therefore, have limited visual impact or effect on the visual dimension of the openness of the Green Belt in this location. At Steanard Lane, the rail alignment will be unchanged save for the installation of OLE.
- 3.109 In his evidence, Mr Rivero, accepts that these engineering and building works would constitute inappropriate development within the Green Belt<sup>45</sup> but considers that the harm to the openness of the Green Belt would be very limited. His evidence is that the need for, and the public benefits of, the Scheme constitute the very special circumstances required to justify the inappropriate development in the Green Belt. Those very special circumstances are also identified in paragraphs 5.3.23 to 5.3.25 of the

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<sup>43</sup> R on the application of Samuel Smith Old Brewery (Tadcaster) v SoS for Energy and Climate Change [2012] EWHC 46 (Admin).

<sup>44</sup> See Section 4.3 of Mr Rivero's PoE.

<sup>45</sup> Specifically Mr Rivero agreed that, as the NTPR serves regional rail services it does not constitute local transport infrastructure and that the works proposed do not fit within the exception set out in paragraph 150(c) of the NPPF.

SoC and paragraphs 9.4.3 and 9.4.5 of the Planning Statement. Both the creation of the new Heaton Lodge Curve and the electrification of the line are fundamental to achieving the Scheme objectives and delivering the wider public benefits.

- 3.110 In section 6.12 of his PoE, Mr Pearson sets out his assessment of the Scheme against regional and local policy with regard to carbon reduction. He notes that the West Yorkshire Emissions Pathways Report identifies that rail capacity in the region must be increased to accommodate modal shift of passengers and freight, with electrification mitigating emissions growth. The report specifically identifies NPR as a key means of increasing rail capacity and notes that capacity increases can be met by improvements to existing infrastructure. The Order Scheme will deliver such improvements and the implementation of the Scheme is now relied upon by the government to deliver the first phase of NPR. The electrification of the Scheme route will lead to an initial reduction in carbon emissions and the Scheme has the potential to reach zero emissions as the UK becomes less reliant on fossil fuels for electricity generation. The Scheme is, therefore, fully consistent with the WYCA's Carbon Reduction Report.
- 3.111 KC's Carbon Neutral Vision sets the aspiration of achieving carbon neutrality by 2038. The Scheme will make a positive contribution to meeting that target through the electrification of the Scheme route. It may also contribute through the additional tree planting that is likely to be brought forward in the Landscape and Environmental Management Plan (LEMP) and in NR's commitment (secured by proposed planning Condition 19) to the achievement of a 10% Biodiversity Net Gain as a result of the implementation of the Scheme. These and other potential contributions to the Council's objectives are set out in paragraphs 6.12.9 to 6.12.16 of Mr Pearson's POE.

**The purpose and effect of any substantive changes proposed by NR to the draft Order since the application was made and whether anyone whose interests are likely to be affected by such changes has been notified.**

- 3.112 At the commencement of the Inquiry, NR submitted a set of proposed amendments to the draft Order in the form of both a tracked changes [INQ-09] and a clean version [INQ-10] of the amended Order. As explained in the Paper of Order Amendments [INQ-05], the substantive changes made in that revision are the deletion of Articles 18(4) and 47 in the original draft, which made special provision for the future maintenance of the realigned A62 Leeds Road Bridge over the railway and bringing the future maintenance of that bridge into the scope of Article 18(3). The other amendments proposed within INQ-09 and INQ-10 are minor changes, including the renumbering of Articles and paragraphs, which are consequential upon these two substantive

changes. The only party likely to be affected by these changes is KC who requested that the changes be made to the draft Order.

3.113 Further amendments have subsequently been proposed by NR. These are shown by means of tracked changes in Document INQ-09A and are explained in the additional Paper of Order Amendments [INQ-05A]. This explains that the amendments are proposed to address comments by the EA regarding the controls in Article 6 of the draft Order and relate to the mechanisms to be put in place for the approval of plans by the EA, the resolution of disputes arising under Article 6, and amendments to the proposed Protective Provisions in favour of the EA, as set out in Part 3 of Schedule 19. The other changes proposed are minor changes that are consequential upon these amendments. The changes proposed to Article 6 and to Part 3 of Schedule 19 have been discussed with the EA and have been made for the EA's benefit (see paragraph 3.62 above).

3.114 There are no other parties who are likely to be affected by the changes that have been proposed to the draft Order and NR requests that the Order be made in the amended form shown in Inquiry Document INQ-10A.

#### **Whether the statutory procedural requirements have been complied with.**

3.115 NR has submitted an information pack [INQ-04] which provides evidence of NR's compliance with the statutory procedures. NR has responded to the concerns about the service of the Rule 15 Notices in Mr Billingsley's PoE and appendices and in the Supplementary Note submitted to the Inquiry [INQ-34]. NR asserts that all the necessary statutory procedures have been complied with.

#### **Deemed Planning Permission**

3.116 NR's request, under s90(2A) of the TCPA, for a direction that planning permission (insofar as it is needed) should be deemed to be granted for the works comprised in the Scheme is set out in full in Document NR12. Paragraph 12 of that document identifies those aspects of the proposal for which planning permission is, or may be, required and full details of these works are set out in Appendix 1 to Document NR12. The proposed conditions included in Appendix 2 of that document have been superseded by the revised conditions agreed with KC and discussed at the Inquiry. The proposed conditions as now amended are appended to this report at Appendix D. A list of the Planning Direction Drawings



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detailing the works that would be the subject of the deemed planning permission is included at Appendix 3 to Document NR12.

- 3.117 It is NR's case that all of the works for which deemed planning permission is requested are required for the implementation of the Scheme authorised by the Order, and that the Scheme is consistent with and supported by the relevant planning policies at both the national and local level. The issue of the Direction is, therefore, necessary for the implementation of the Order Scheme.

### **The applications for Listed Building Consent**

- 3.118 Nine applications for LBC have been submitted as detailed below. Each application is accompanied by a detailed Heritage Assessment which appraises the significance of the designated heritage asset (as required by paragraph 194 of the NPPF), the impact of the Scheme, the options considered for the works that will affect the asset, and the mitigation or compensation proposed. Where the effects of the Scheme would result in significant effects to the historic environment, the relevant standards and policy have been applied in determining the appropriate mitigation to be adopted. Detailed plans for each proposal were submitted with the applications.
- 3.119 As detailed in Appendix 1 to Ms Rees-Gill's PoE, NR has worked closely with HE and KC throughout the development and refinement of the proposals affecting the designated assets in what she described as a process of "*challenge and collaboration*". The value of that process is clear in that there is no substantive objection to the making of the Order or the granting of LBC for any of the 9 structures from HE or KC. The issues raised in their respective SoC have been resolved through further negotiation and agreement as to the conditions to be attached to the consents should they be approved.
- 3.120 Ms Rees-Gill detailed in her evidence the significant amount of work undertaken to arrive at the proposals for which LBC is now sought. This started by seeking to understand the history of the NTPR and its main components and how it has been subject to changes over the years. The first source document for this work was already in place. This is the TransPennine Route Statement of History and Significance: West of Leeds prepared by Alan Baxter Associates in March 2017 [NR85]. This sets out a history of the development of the route and a detailed examination of the individual assets along it. As explained by Ms Rees-Gill in her evidence, this report is helpful in understanding the special significance of the assets along the route, with some bridges having been listed or

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having achieved a higher listing status since that report was published in 2017.

- 3.121 This was followed in 2018 by more detailed work to understand the significance of Huddersfield Station.<sup>46</sup> This was a vital piece of work in terms of enabling NR to understand what is important about the station, to communicate that to the Scheme designers, and to assess what capacity there is for change and the potential for harm to its significance.
- 3.122 As the design process began it was also recognised that the Scheme route needs to be understood as an historic railway, particularly if changes needed to be made to key assets along the route. This led to the TransPennine Route Upgrade: Route-wide Statement of Significance that was prepared by Alan Baxter Associates in August 2019 [NR103]. The brief for this report was prepared and agreed by Atkins Consultants, HE and Alan Baxter Associates because it was agreed that this was a critical piece of work to feed into the assessment of the heritage assets and the preparation of the ES.
- 3.123 The assessments identify that the TransPennine Route is of significance in itself due to:<sup>47</sup>
- The engineering achievement of the five railway companies that constructed it, reflecting the route's complex origins;
  - The engineering response to the difficult Pennine terrain, making use of local natural resources and building material, which are evident in the construction of the bridges, large-scale viaducts and tunnels;
  - The survival of historic railway structures from the Pioneering (1825-41) and Heroic (1841-50) Ages of railway building, albeit many altered during the fourth Completion phase (1870s - 1914) of the network during the latter part of the 19th century;
  - The historical association with those architects, engineers and companies who constructed the lines, including the development of new technologies using cast and wrought iron;
  - The impact of the railway and its continuing influence in the development and lives of communities along its route, including how it has shaped towns including Dewsbury and Huddersfield;

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<sup>46</sup> The listing is a 'legacy listing', i.e. done at a time when the listing only described the asset without any analysis of which elements or features make a notable contribution to its significance as a listed building.

<sup>47</sup> Para 8.3.6, SoC [NR28].

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- The diversity of the railway structures' designs which contributes to the significance of this route providing a multifaceted dimension to the route's aesthetic; and
  - The continuity of the NTPR, connecting communities between east and west England; enabling people's experience of train travel through this landscape.
- 3.124 As set out in Section 3.1 of Ms Rees-Gill's PoE, the importance of the NTPR lies in its diverse design influences in its original construction and subsequent widening in the 1880s and 1890s. It therefore contains structures of the highest historic importance dating from the Pioneering and Heroic Ages of railway development. The Scheme route is characterised by large-scale and pioneering engineering structures including tunnels, viaducts and bridges, many of which are recognised as being of historic value and are designated as Listed Buildings.
- 3.125 The significance of these various structures lies, in part, in their signature design which is related to the individual railway companies that commissioned them, the individual engineers and architects that designed them and even the specialist firms that built them. It is important to remember that each of the 9 assets that are subject to an LBC application is a railway asset. Their significance is inextricably linked with the railway that they were built to serve.
- 3.126 Ms Rees-Gill's evidence outlines the optioneering and design work undertaken before arriving at the design solutions put forward in the LBC applications and the design-based solutions adopted to limit or reduce the impacts on the heritage assets and/or to enhance some elements of those assets to better reveal their significance. This work is recorded in the Heritage Assessment for each of the LBC applications and is summarised in Table 8-1 of the SoC. The Heritage Assessment work has also fed into the preparation of ES Chapter 6 in both the Scheme Wide (Volume 2i) and Route Section (Volume 2ii) sections of the Main ES [NR16A].
- 3.127 Each set of proposals underpinning the LBC applications has been designed with embedded mitigation in place to limit or reduce the impact on the heritage asset. Additional mitigation has also been proposed where practicable. Compensation for any adverse impacts on the significance of each of the designated assets is also proposed through the preparation of a Conservation Implementation Management Plan (CIMP) for each of the nine assets; historic building recording; the monitoring of construction works during any demolition, dismantling, storage,

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reconstruction and strengthening works; and the re-use of historic materials.

- 3.128 The draft conditions that are proposed to be attached to the LBCs, if granted, are set out in Appendix E to this report. They require that a CIMP for each of the assets be approved by KC before any works are commenced. An outline specification for the content and scope of the CIMPs has been agreed with KC.<sup>48</sup> Minimum requirements in terms of the content of the CIMP are set out in a relevant condition for each of the LBCs. The CIMP is a quality assurance tool that has been successfully used for the implementation of the LBC for works to the Grade I listed Stephenson's Bridge in association with the NR (Ordsall Chord) TWA Order, 2015 (Appendix 3 to Ms Rees-Gill's PoE). HE and KC support the use of CIMPs. In conjunction with the level of detail in the applications, the proposed conditions which will secure the quality of the designs, and the CIMP which will secure the quality of the delivery of the works, there is sufficient information for the SoS to make a safe and informed judgement that the proposed interventions will be delivered to the required quality of design.
- 3.129 The following paragraphs set out a brief description of each of the designated assets subject to an LBC application and of the significance of that asset. They summarise the options that were considered and the embedded and other mitigation or compensation proposed to limit or reduce harm to the significance of the asset. They also set out NR's assessment of the proposal against the relevant policy tests in Section 16 of the NPPF.
- 3.130 In respect of all of the LBC application proposals, the level of harm to the significance of the assets as assessed by NR is agreed by both HE and KC who also agree that that harm would be outweighed by the public benefits of the Scheme.

### **LBC1: Huddersfield Railway Station (Grade I)<sup>49</sup>**

- 3.131 Huddersfield Railway Station is Grade I listed and forms an iconic landmark building within Huddersfield Town Centre Conservation Area. Started in 1846, it was fully completed in 1850. It draws significance from its historical association with the Heroic Age of railway construction (1841-50). One of the key contributors to its significance is its uninterrupted use and operation, since that time, as a railway station

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<sup>48</sup> Appendix C to Ms Rees-Gill's PoE.

<sup>49</sup> The application drawings, Statement of Significance and Heritage Assessment are in Document NR17.

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serving passengers from the mid-19th to the early 21st century. The Scheme seeks to ensure this longevity of use into the future.

- 3.132 Originally designed with a single platform, the station was expanded and upgraded in the 1880s to accommodate growing passenger numbers and additional services and provide improved comfort and facilities for passengers. This upgrading included the construction of additional platforms, a new Euston<sup>50</sup> roof to the trainshed, island tea rooms and a passenger subway. The roof is both one of the largest trainshed spans in the country and a rare example of a surviving Euston roof from that period. Its rarity, the engineering accomplishment of its construction, and its monumental presence in the station all make a significant contribution to the Grade I listing.
- 3.133 The principal building is still recognisable from the drawings by the architect J P Pritchett who designed it and has been little altered since it was first constructed. This is a testament to the high regard attributed to its aesthetic and architectural qualities. Described by Pevsner as one of the best early railway stations in England, the principal building provides the strongest contribution to the significance of Huddersfield Station as a Grade I Listed Building. Its design has had a major influence on the other buildings subsequently constructed within St George's Square. The station still retains its role as the principal backdrop to the square. The harmony between the square and station also makes an important contribution to its significance.
- 3.134 The tea rooms are of a typical design that was once commonplace across the expanding railway network but it is increasingly rare for these buildings to have survived with their 'all-round' access points as these ones have. The survival of the tea rooms, and their increasing importance as a feature of the station expansion programme, marks this as a feature which makes a particularly important contribution to the significance of Huddersfield Station and the railway heritage within the region.
- 3.135 As detailed in the application plans and Heritage Assessment, the works proposed are demolition of Roofs B and C; demolition of two bays of Roof A at the Manchester end; a new section of canopy on the Penistone platform; installation of three new bays on Roof A at the Leeds end; reinstatement of the lantern to the whole of Roof A; platform alterations and extensions; new island platform; extension of existing passenger

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<sup>50</sup> So named as it follows the design of the main trainshed roof at London Euston Station. The roof at Huddersfield Station is of particular significance because, being 24m long, it is one of the largest trainshed spans in the country and is one of only a few remaining Euston roofs.

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subway; in-filling of disused parcel subway; demolition of signal box, relay room and cable gantry between platforms 1 and 4; relocation of tea rooms; provision of new eastern footbridge and lifts/stairs and canopies; and provision of overhead electric line equipment.

3.136 The proposals benefit from embedded mitigation through the design of the works including:

- a) The optimisation of the design of the overall platform arrangement and track alignment to balance the operational requirements and to minimise the impacts on significance. In particular, the final design retains the majority of the main trainshed roof (Roof A) and the tea rooms (albeit with some local repositioning to facilitate the new platform layout).
- b) A detailed assessment of the condition of the trainshed roof to confirm that it could be retained and inform the design of sympathetic strengthening of the structure to help ensure its future longevity.
- c) The design of the replacement for the lantern to Roof A (which is believed to have been removed in the early 20th century) has considered the history of the original lantern and how its reinstatement could both enhance the significance of the historic roof and improve passenger comfort within the station.
- d) The design of the new canopies to the repositioned and extended platforms responds to the significance of the station by being sympathetic to the existing roof and using its scale and form as design drivers. Consequently, the new canopies are of smaller scale than the retained Roof A but include similar geometry while their design preserves visibility towards and the legibility of the historic roof. Their design also responds to the setting of the station by opening up views towards the listed St George's Warehouse and the former Accumulator Tower in the former goods yard to the west of the station.
- e) The design of the proposed footbridge was developed to minimise the impact of this new structure on views out from and back towards the station platforms. It is proposed as a glazed structure so as to be as visually permeable as possible in the context of the operational requirements (including the need to avoid drivers being exposed to glare when trains are entering or leaving the station) as well as providing views of the new roof and over the surrounding townscape.
- f) The design of the tea rooms has been developed to retain the historic character and significance of this key feature by retaining it on the island platform (albeit in a slightly different position) and selecting a

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construction methodology that would minimise the risk of harm to the structure during the construction works. The reorientation (through 180°) of the tea rooms has been proposed to respond to the significant elements of their historic function while maintaining their external appearance.

3.137 Additional mitigation is provided through:

- a) An agreed construction programme to minimise, as far as reasonably practicable, the amount of construction traffic using St George's Square.
- b) Proposed measures to minimise the visibility of construction activity, plant and hoardings and to reduce dust and noise during the construction works.
- c) Toolbox talks to construction contractors to disseminate best practice for reducing potential impacts in relation to construction activity within the station, for example to avoid accidental damage to historic features or fabric.

3.138 Compensation measures have been recommended in the ES and the Heritage Assessments for each of the LBC applications where additional mitigation to reduce impacts has not proved possible. These measures would be agreed as part of the CIMP for each asset and would be implemented pre-construction. The measures would be secured as part of the discharge of the conditions attached to each of the LBCs.

3.139 Ms Rees-Gill gave detailed evidence on the options which had been explored for the canopies over the realigned and extended platforms and for the new footbridge within the station. She answered the questions put to her by the Inspectors in relation to how the quality of the interventions and new works would be secured through the proposed conditions and the CIMP. At paragraph 4.4.7 of her PoE, she confirms her opinion that Huddersfield Station is a key component of the Scheme and that the interventions are essential in ensuring the continued operation of the railway in a manner compliant with modern safety standards. In that sense these, and the works proposed to other

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designated assets, form another chapter in the story of the development and use of the NTPR.

3.140 The proposed works to Huddersfield Station will deliver positive benefits in terms of its heritage significance as a result of:

- a) The reinstatement of the lantern on the principal section of the Euston roof (Roof A).
- b) The extension of Roof A at the Leeds end of Platform 1, thereby reinstating bays that were removed in the 1970s.
- c) Strengthening works to ensure the long-term survival of the principal trainshed roof (Roof A).
- d) The retention, re-orientation and fireproofing of the tea rooms to ensure their continued use and longevity as part of the station facilities and services.
- e) The removal of unsympathetic additions within the trainshed area, including a cable gantry across the platforms and the redundant signal box and control room, which will open up the visual connection between the station and the Grade II listed Stone Warehouse and Brick Warehouse (St George's Warehouse) within the former goods yard to the west.

The wider public benefits of the Order Scheme are set out in Section 4.3 of Ms Rees-Gill's PoE and in the Statement of Aims [NR04] and SoC [NR28].

3.141 Due to the sensitive design approach in drawing up the proposals NR considers that the impact on the significance of Huddersfield Station amounts to less than substantial harm, having regard to paragraph 202 of the NPPF. That harm is outweighed by the public benefits of the Scheme, including the identified heritage benefits, and the policy test in paragraph 202 of the NPPF is met. The proposals also comply with part 3 of Policy LP35 of the LPSPD. That policy seeks that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset and ensure that the key elements of



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the historic environment which contribute to the distinct identity of the Kirklees area are appropriately conserved.

**LBC2: Huddersfield Railway Viaduct (MVL3/92) between John William Street and Alder Street, Huddersfield (Grade II)<sup>51</sup>**

- 3.142 Huddersfield Railway Viaduct (Grade II listed) was constructed between 1845 and 1847 and is largely built from rock faced stone. It extends to a length of about 600m and contains 47 spans. It carries 2 tracks for the most of its length, increasing to 5 tracks on the approach to Huddersfield Station. The spans over John William Street (Span 1), Fitzwilliam Street (Span 4) and Northgate/Bradford Road (Span 29) were all widened, using metal girders, in the 1880s expansion of the railway.
- 3.143 The viaduct is significant for its engineering achievement and its scale. This significance is enhanced both by the relatively few alterations since the 1880s and the legibility of the widening that took place in that period. The rhythm and monumental scale of the arches provides it with considerable architectural interest. Huddersfield Viaduct also derives significance from its setting, both in terms of its prominence in the townscape and through the views afforded to train passengers as they cross over it.
- 3.144 The works proposed are: strengthening works; the replacement and widening of the deck over Span 1 (John William Street), reconstruction of the abutment at the north west corner of Span 4 (Fitzwilliam Street); reconstruction of part of Span 29 (Bradford Road); provision of parapet handrails, pattress plates; and installation of OLE and a signal gantry. These works are required to facilitate the increase in the number of tracks to five from the southern end to Span 17 and to four tracks from Span 17 to the northern end of the viaduct; to remove existing girders which project above track level in some parts of the structure; to replace parts of the structure that are in poor condition or are not adequate to carry the four track operation of the railway; and to facilitate the installation of OLE.
- 3.145 The new deck over Span 1 needs to be widened by means of a cantilever section, projecting 2.3m from the face of the viaduct on the south eastern side. This is required to provide an emergency escape route from the extended Platform 2 within Huddersfield Station. OLE stanchions are to be fitted within the width of the viaduct where space allows but will need to be supported by portals attached to the face of the structure on the east side and on the southern half of the west side. A new signal gantry is to be installed approximately over Spans 2 and 3 to

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<sup>51</sup> The application drawings and Heritage Assessment are within Document NR18.

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provide signals for train movements into and out of the station. The existing spandrel walls to the viaduct will also be strengthened at localised points as required either through the use of tie bars and pattress plates or a slab below the track bed.

3.146 Embedded mitigation is provided through:

- a) The replacement deck over Span 1 has been designed to reflect the architectural style and aesthetics of the existing metallic deck.
- b) The new decks over Span 29 will be constructed using concrete beams. These have been designed to respond to the style of the metallic spans that would be lost by incorporating relief to reflect the appearance of the existing parapets. The design also includes the retention of the offsetting between the decks and the barrel of the original masonry arch and the use of masonry cladding on the bridge abutments to match the existing masonry used in the viaduct.
- c) The siting of OLE portals over the existing bridge piers in most locations where practicable and the positioning of the signal gantry on the deck of the viaduct as opposed to it being attached to its exterior.
- d) The proposed re-use of masonry for the cladding of the strengthened abutment to the Fitzwilliam Street Bridge (Span 4).
- e) The proposed approach to strengthening the spandrel walls so that these works match the historic strengthening that is already visible on the exterior of the viaduct, using tie bars and pattress plates.

3.147 Although there would be an evident degree of change in the appearance of the viaduct, the sensitive design of the interventions would ensure that the harm to its significance would be less than substantial. The public benefits of the Scheme are as set out earlier. The proposals will bring positive benefits in heritage terms through the strengthening works proposed. The replacement of the corroded metal decks will help to secure the long-term retention and continued use of the viaduct for its intended function and purpose.

3.148 NR contends that the less than substantial harm to significance caused by the works is outweighed by the public benefits of the Scheme, that the

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NPPF paragraph 202 tests are satisfied, and that the proposals meet the criteria set out in LPSPD Policy LP35.

**LBC3: Wheatley's Colliery Overbridge (MVL3/103), Ashley Industrial Estate, Leeds Road, Bradley, Huddersfield (Grade II)<sup>52</sup>**

- 3.149 Wheatley's Colliery Overbridge was constructed in two phases. The original phase, in 1845-1849, comprising a single arch, was designed by the Huddersfield and Manchester Railway Engineer Alfred Stanistreet Jee (A S Jee),<sup>53</sup> with a second arch added in the second phase of construction in the 1880s. Today, the bridge carries a pedestrian route and part of the National Cycle Route 66 over the railway. However, the first edition OS Map of 1854 shows the bridge crossing the main road and providing access down to the canal where an industrial complex, marked as Colne Bridge Colliery, is shown. This colliery was owned by Charles Wheatley JP and is thought to have been the origin of the bridge's name. The widening in the 1880s was undertaken with a degree of care and effort to duplicate the original structure in a manner that is sympathetic to its design and detailing. The structure possesses group value as one of a number of structures along the NTPR which were designed by A S Jee. The works proposed are the wholesale demolition and replacement of the bridge.
- 3.150 The improvements required in the vicinity of Wheatley's Colliery Overbridge include the widening of the railway to four tracks, installation of OLE, the retention or replacement of Yorkshire Water services (3 pipes) across the railway, and the retention of the existing PROW and cycle way over the railway in a manner that meets modern public safety standards. A number of options, including adjusting both the horizontal and vertical alignment of the railway and the possible jacking of the bridge to provide sufficient clearance over the lines to accommodate the OLE, were explored before the proposed solution was adopted.
- 3.151 Having explored and assessed all the reasonable alternatives NR has concluded that none of these are capable of addressing all of the constraints at this location. Consideration was given to the partial removal of the bridge and to how much of the historic fabric might possibly be retained under such an option. That exercise showed that only the south eastern abutment could be saved. Following in-depth discussions, it was decided that such limited retention of the structure

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<sup>52</sup> The application drawings and Heritage Statement are in Document NR19.

<sup>53</sup> Details of the principal engineers and architects who were involved in the design and construction of the various sections of the NTPR are set out in Section 3.9 of NR103.

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would not help to retain the historic significance of the bridge. It was agreed with HE and KC that a full examination of the available options had taken place and that a new bridge would be required to deliver a fully compliant Scheme.

3.152 Embedded mitigation is built into the design of the new bridge by means of:

- a) The use of materials and finishes to reflect the area's historic industrial character such as weathering steel, with final materials and finishes to be agreed with statutory consultees as part of discharging the LBC conditions.
- b) The new bridge abutments are to be clad in stone that is similar to the historic fabric of the overbridge including the possible use of stone salvaged from its demolition if this proves to be feasible. The feasibility of this option would be addressed as part of the CIMP to be approved by KC.

3.153 In addition to the standard compensatory measures referred to above, consideration will be given to the incorporation of heritage interpretation features within the design of the new bridge to reflect the history of the bridge and its location.

3.154 The demolition of the existing bridge would result in the total loss of an irreplaceable piece of historic railway infrastructure dating from the Heroic Age of railway development and providing evidence of the expansion in the 1880s. It would also result in the loss of one of the A S Jee designed structures. However, the majority of those structures would still be retained in their original form and there is nothing unique or rare about the Wheatley's Colliery Overbridge that distinguishes it from the rest of that group.

3.155 The demolition of the Grade II listed structure would amount to substantial harm to and total loss of its significance as a designated heritage asset. Paragraph 200 of the NPPF advises that such loss should be exceptional. Paragraph 201 states that, where a proposal would result in substantial harm, consent should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss. NR asserts that the scheme development and optioneering demonstrates that the demolition of the bridge is necessary for the delivery of the Scheme and that the substantial public benefits outweigh the harm to the heritage asset. The proposal is, accordingly, consistent with the policies in the NPPF and with Policy LP35 of the LPSPD.

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**LBC4: Colne Bridge Road Overbridge (MVL3/107) Colne Bridge Road, Bradley, Huddersfield (Grade II)<sup>54</sup>**

- 3.156 Colne Bridge Road (or Bridge Road Overbridge) was constructed between 1845 and 1849 in the Heroic Age of railway building. It is thought to have been built originally as a double-span overbridge to carry the Kirkheaton Bradley Road over the Huddersfield and Manchester Railway. It was subsequently widened by the London and North Western Railway, between 1881 and 1884, to a three span length with an additional subsidiary southern span, allowing it to cross four railway tracks. Today it carries the B6118 Colne Bridge Road over the railway.
- 3.157 The significance of the bridge is reflected in its historic interest as one of the original bridges built in the Heroic Age on one of the main railway lines in the north of England. It has architectural interest as a triple-span segmental arch bridge with a fourth subsidiary (footpath) arch. It demonstrates a high level of craftsmanship in its construction, detailing and dressing. The bridge also possesses group value as one of the bridges along the Scheme route that was designed by A S Jee. The bridge has been assessed as being in fair condition.
- 3.158 The works proposed are the partial demolition of the bridge and the construction of a replacement single span bridge offline and adjacent to the east of the existing structure. This would require the demolition of the two central spans of the historic bridge, although the two outside spans would be retained.
- 3.159 The works required for the delivery of the Scheme in the vicinity of the Colne Bridge Road Overbridge are the increase from 2 to 4 tracks, the installation of OLE and the retention of the B6118, including provision for pedestrians and cyclists, in a manner that meets modern safety standards. The multiple constraints that had to be taken into account included highways geometry, railway geometry and highways alignment, including the achievement of satisfactory tie-ins with the existing roundabout to the north of the bridge and with the bridge over the Huddersfield Broad Canal to the south (also a Grade II Listed Building).
- 3.160 The two main options explored were: (i) track lowering to fit the railway alignment under the existing arched bridge spans, and (ii) jacking the

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<sup>54</sup> The application drawings and Heritage Statement are in Document NR20.

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bridge to increase the height of the arches to provide sufficient clearance for the OLE.

- 3.161 Track lowering was deemed likely to result in unacceptable levels of passenger discomfort because of the need to tie the railway back into its existing vertical alignment at the Huddersfield Broad Canal Underbridge (MVL3/108S). There is insufficient headroom under this bridge to lower the fast lines at this point. The option of bridge jacking has not as yet been tested on a multi-span bridge and it was decided that this listed bridge would not make an appropriate test case to try out that option. It was also concluded that both options would require trains to slow down to avoid clashing with the central pier of the existing bridge. For this reason, these options are not capable of delivering the line speeds on the fast lines that are critical to the achievement of improved journey times on the NTPR.
- 3.162 Again, it was agreed with HE and KC that considerable efforts had been made to explore the reasonable alternatives and that the substantial demolition of the existing bridge is necessary to achieve the operational requirements. The resulting proposals are that a new bridge be constructed which would be fully off of the line of the existing bridge, with the existing approach roads being retained with reinforced earth walls. Part of the historic bridge structure would be retained, abutting the new structure beneath the new bridge deck (see application plans). The central spans of the bridge would be demolished but the two outside spans would be retained. These retained arches would be infilled.
- 3.163 Embedded mitigation is provided by means of:
- a) The retention of the two outer spans in order to maintain the legibility of the former bridge's alignment and use; and
  - b) The infilling of the remaining arches in a sensitive manner, with a recessed masonry façade that is sympathetic to the aesthetics of the existing bridge, thereby retaining some the historic character of the surviving elements of the heritage asset.
- 3.164 The substantial demolition of the Colne Bridge Road Overbridge will result in substantial harm to its significance as a designated heritage asset. In addition to the considerable public benefits of the Scheme as a whole, the proposals will deliver local benefits through the provision of enhanced facilities within the new bridge design for pedestrians (compared to the

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substandard footway in the current situation) which will result in highway safety benefits.<sup>55</sup>

- 3.165 The optioneering work has demonstrated that the substantial demolition of the existing bridge, and consequential substantial harm to the significance of the heritage asset, is necessary to achieve the substantial public benefits that the Scheme will deliver. These benefits clearly outweigh that harm. The NPPF section 16 tests are, therefore, met and the proposals comply with Policy LP35 of the LPSPD.

**LBC5: Mirfield Viaduct (MVN2/192), Newgate, Mirfield (Grade II)<sup>56</sup>**

- 3.166 Mirfield Viaduct is a significant piece of architecture and engineering, reflecting the historic importance of the Manchester and Leeds Railway and, later, the NTPR. It was constructed between 1836 and 1839 during the Pioneering Age and was designed jointly by George Stephenson and Thomas Gooch. It is constructed in quarry faced stone and comprises 11 segmental arches with a twelfth span over Newgate which is of metal construction. A brick and steel extension was built on the southern side in the 1930s to accommodate two additional tracks. Only the masonry part is included in the listing.
- 3.167 It is significant in heritage terms chiefly for its close connection with George Stephenson and the Pioneering Age as well as its classical design which elevates its character above that of the purely functional. The bridge also derives significance from its setting, notably its prominent position over the River Calder.
- 3.168 The works proposed are erection of overhead line structures for the OLE. Three portals to carry the OLE would need to be installed but none of these would be situated in those spans which cross the River Calder to ensure that they would not interrupt key views of the viaduct. The concrete foundation pads for the portals would be supported directly on the deck of the listed Viaduct. This would require the localised removal of existing ballast on the deck. Two of the portals would be fixed in board of the parapet with no alterations to the masonry being required. The third portal would need to be fixed to the exterior of the viaduct. On

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<sup>55</sup> See paragraph 3.2.12 and 3.1.13 of Mr Williams' PoE

<sup>56</sup> The application drawings and Heritage Assessment are in Document NR21

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the southern extension (non-listed) side of the viaduct the portals would be fixed to the external façade of the parapet.

- 3.169 Embedded mitigation is provided through the avoidance of any physical impacts to the listed structure by positioning the OLE portals on the masonry side of the viaduct inside the parapet wall. The design also places these portals in line with the masonry piers of the original structure. The spacing of the portals has been set to make use of the position of the river bank at either end of the viaduct. This design solution has been adopted in order to limit the potential for the portals to infiltrate into views of the viaduct within the river corridor.
- 3.170 The scheme would result in very little impact on the significance of the Listed Building and any resulting harm would be less than substantial. The public benefits that would be delivered by the Scheme would clearly outweigh that harm and the NPPF paragraph 202 test is, therefore, satisfied. These proposals would also be consistent with Policy LP35 of the LPSPD.

**LBC6: Calder (Wheatley's) Underbridge (MVN2/196), Steanard Lane, Mirfield (Grade II)<sup>57</sup>**

- 3.171 Calder (Wheatley's) Underbridge was originally constructed in 1836-39 by George Stephenson during the Pioneering Age. It comprises five segmental masonry arch spans with a brick and masonry extension added to the south side in the mid-20th century in a similar style. Although the listing refers to the structure as an underbridge it is in practice a viaduct as it carries the railway over the River Calder in five spans.
- 3.172 The viaduct derives significance from its association with George Stephenson and the Pioneering Age and some limited significance from its association with the Lancashire and Yorkshire Railway. Some degree of significance flows from its design, in particular the attractive voussoirs on the north facing side and the sympathetic design of the later widening, and from its setting as it is prominently positioned over the river and visible from Steanard Lane.
- 3.173 The works proposed are the erection of overhead line structures and a handrail. Two OLE portals would be installed on the deck of the viaduct rather than on its exterior façade. The installation of the portals would require the temporary removal of part of the parapet during the construction works. Once the portal foundations have been installed, the

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<sup>57</sup> The application drawings and Heritage Assessment are in Document NR22.



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parapet wall would be reinstated but the thickness of the wall would need to be reduced around the foundation. The fixing of the foundations to the deck would require the removal of some of the existing ballast and a very limited tie in with the historic structure of the deck.

- 3.174 The design has been developed so as to retain the aesthetic legibility of Wheatley's Underbridge and to limit changes to its historic fabric. Having assessed the alternative options, it was decided that the most appropriate approach was to position the OLE portals within the parapet and to align these as closely as possible with the masonry piers within the existing structure. This requires some temporary removal and subsequent reinstatement of parts of the parapet wall. This is considered to be much less harmful to the significance of the structure than the alternative of fixing the portals to the outside face of the viaduct.
- 3.175 The removal of a small amount of the parapet fabric during construction works would have a limited impact on the structure's significance. The embedded mitigation will ensure that the historic character of the viaduct is maintained and avoid any greater harm to its significance. The resulting harm would be less than substantial and would be outweighed by the public benefits of the Scheme. The proposal, is therefore, consistent with the policies set out in section 16 of the NPPF and complies with Policy LP35 of the LPSPD.

**LBC7: Occupation Underbridge (MDL1/10), Thornhill Road, Westtown, Dewsbury (Grade II)<sup>58</sup>**

- 3.176 Occupation Underbridge, a single span access underbridge, is a well detailed structure built in coursed quarry-faced sandstone with curved wing walls flanking the semi-circular arch. It is of significance as a largely unaltered example of an 1840s accommodation underbridge dating from the Heroic Age of railway building and designed by the distinguished engineer Thomas Grainger. It also derives significance from its architectural treatment which elevates its design above the purely functional. The underbridge provides access to a private residential property.
- 3.177 The works proposed are the infilling of the underbridge, deck reconstruction, embankment widening and masonry repairs. A new blockwork retaining wall would be constructed on the south eastern face to contain the foam concrete and granular material that would be used to infill the arch. Grout would be added through holes in the bridge deck to complete the infilling process. The new wall on the south eastern side

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<sup>58</sup> The application drawings and Heritage Statement are in Document NR23

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would be slightly recessed from the face of the arch and clad with stone masonry in a manner sympathetic to the existing style of the structure. The north western side of the bridge would be retained in situ but would be hidden under a new battered back embankment to carry the widened railway.

- 3.178 The realignment required at this location is part of the wider remodelling of the railway in order to remove an existing reverse S curvature of the line between Westtown and to facilitate the new crossings over the River Calder and the Calder and Hebble Navigation. The removal of this reverse curve is critical to achieving the required increase in line speeds to 100mph. The realignment results in one track being aligned outside of the existing width of the bridge and necessitates the widening of the track bed and provision of a battered back embankment to support the new tracks.
- 3.179 A number of other options for widening the structure were considered and assessed in terms of their effect on the structure, their ability to meet the operational needs of the Scheme, the requirement for access to be maintained to the residential property, and the level of disruption to the owner of that property during the works. As set out in the Heritage Assessment (section 3.2) the constructability, health and safety and operational risks, combined with the long-term disruption to the property owner meant that all options for widening the existing structure were deemed unviable. The infilling option was found to offer less risk to the stability of the railway and significant benefits in terms of constructability, safety and costs.
- 3.180 The mitigation embedded within the design has sought to retain the legibility of as much of the original structure as possible. The recessed, masonry infill panel to the south eastern arch of the bridge will ensure that there is a visible marker of the original structure although the other side of the arch will no longer be visible. The option of incorporating a similar masonry clad structure on the north western side was fully explored but was deemed unviable. This conclusion was agreed by HE and KC.
- 3.181 NR considers that the works would cause less than substantial harm to the significance of the asset and that that harm would be outweighed by the public benefits of the Scheme. The NPPF policy tests are, therefore, met and the proposals comply with LPSPD Policy LP35.

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**LBC8: Toad Holes Underbridge (MDL1/12) Toad Holes, Westtown, Dewsbury (Grade II)<sup>59</sup>**

- 3.182 Toad Holes is an access underbridge constructed between 1845 and 1847 by Thomas Grainger within the Heroic Age. It was originally constructed with a cast iron beam but the central deck was replaced with steel cross girders and a concrete deck in the early 1900s. The bridge has quarry faced stone abutments ornamented with projecting panels, spanned by a cast iron fascia beam with moulded panel decoration with a pierced cast iron balustrade above. It is of significance as one of the rare surviving examples of a cast iron level beam bridge dating from the Heroic Age. It also derives significance from its association with Thomas Grainger and its architectural interest. Together with Ming Hill Underbridge (see below) and a cast iron underbridge in George Street in Dewsbury (MDL1/16), the bridge has group value due to its architectural treatment and association with the Leeds, Dewsbury and Manchester Railway.
- 3.183 The underbridge has been partially infilled from the north west side. Only screened views of the bridge parapet remain from the public road on this side of the structure. On the south eastern side, the setting has also been degraded following the clearance of the original textile mill buildings and their replacement with a waste management business. Due to its partial infilling the underbridge has no remaining functional use. It is also in poor and worsening condition with corrosion, concrete spalling and settlement defects (section 1.2 of Heritage Assessment).
- 3.184 The works proposed are the removal of the existing partial fill material and the central portion of the existing deck in a manner which preserves the original edge girders. New infill would then be completed from the bottom up with holes cored in the bridge deck to enable final grouting. A new masonry blockwork wall would be constructed to the south eastern elevation. This would be slightly recessed within the existing arch.
- 3.185 Extensive consultation was carried out with HE and KC in the development and refinement of the proposals (Section 1.5 of the Heritage Assessment). The alternative of retaining the existing bridge and undertaking major strengthening works was fully assessed. This led NR to conclude that the sympathetic infilling of the structure is the most favourable option to achieve the required reliability and resilience of the

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<sup>59</sup> The application drawings and Heritage Statement are in Document NR24.

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railway and the desired line speeds of the two tracks running over this structure.

- 3.186 Embedded mitigation has sought to strengthen the structure and to infill it in the most appropriate manner so as to retain the legibility of the underbridge's original purpose of providing access under the railway. The recessed infill wall within the south eastern arch will close up this opening but will provide a visual marker to its previous existence. The design also ensures that the existing masonry pilasters, cast iron parapets and balustrades, which all make a considerable contribution to the bridge's significance, are retained and preserved.
- 3.187 In addition to the public benefits of the Scheme the works would provide positive heritage benefits as the infilling would extend the life of those elements of the structure that are to be retained (i.e. the cast iron edge girders, parapet and stone pilasters) by reducing the stresses upon them. The preservation of these features would ensure the longer term appreciation of this particular structure and this form of railway heritage. NR considers that these benefits are sufficient to outweigh the less than substantial harm caused to the significance of the asset and that the NPPF policy tests are met. The proposals are also compliant with Policy LP35 of the LPSPD.

**LBC9: Ming Hill Underbridge (MDL1/14), Ming Hill, Westtown, Dewsbury (Grade II)<sup>60</sup>**

- 3.188 Ming Hill is also an access underbridge constructed by Thomas Grainger between 1845 and 1847. It was originally a cast iron bridge but the central portion of the deck was replaced with brick jack arches on plate steel girders in the early 1900s. The edge girders, parapets, stone abutments and wing walls are surviving elements from the original construction. The substructure comprises stone abutments, and curving, raked wing walls. The bridge derives significance from these original features and has group value with the other Grainger-designed bridges along the NTPR. Although it carries an operational railway its function as an underbridge has been removed through partial infilling on its western side, leaving only the parapet walls exposed. The south east elevation remains open but the space underneath the arch is partially filled.
- 3.189 The bridge has been assessed as being in a fair condition but is expected to continue to deteriorate due to multiple transverse fractures and lateral movement of the girders. Further structural interventions would be

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<sup>60</sup> The application drawings and Heritage Assessment are in Document NR25.

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needed to keep it in a safe condition (Section 1.2 of the Heritage Assessment).

- 3.190 The proposed works comprise the removal of the existing partial fill and the central portion of the bridge deck whilst retaining the original edge girders and parapets. The underbridge would then be infilled using the same methodology as for the Toad Holes and Occupation Underbridges, with the final grout being introduced through holes in the bridge deck. A new masonry blockwork wall would be constructed on the south facing elevation to contain the fill. This would be slightly recessed within the existing arch.
- 3.191 The operational objectives of improving the reliability and resilience of the railway and achieving line speed of 100mph on the two tracks in this section of the Scheme route require a realignment of the tracks in a horizontal and vertical direction. To achieve this realignment and achieve the desired line speed it has been concluded that sympathetic infilling of the structure is the most favourable option. This option has been selected through a process of optioneering and assessment which has included engagement with HE and KC as set out in Sections 1.5 and 3.2 of the Heritage Assessment.
- 3.192 The mitigation embedded in the design has resulted in a masonry clad retaining wall to the south east face of the structure to ensure that the legibility of the architectural design of the bridge is retained. The design also secures the retention of other elements of the original bridge, including the cast iron parapets and masonry pilasters, which contribute to its architectural interest and significance.
- 3.193 In addition to the public benefits of the wider Scheme the proposals would provide heritage benefits as the infilling would extend the life of the retained elements of the original structure by reducing the stresses placed on them by train movements. These features would subsequently degrade at a slower rate than without the proposed interventions. The proposals would, therefore, help to secure the long-term appreciation of the structure and this type of railway heritage.
- 3.194 The proposals would result in less than substantial harm to the significance of the heritage asset. This harm would be outweighed by the

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public benefits of the Scheme and the NPPF policy tests would, therefore, be met. The proposals accord with Policy LP35 of the LPSPD.

### **Mitigation for Effects on Designated Assets**

- 3.195 Mitigation has been used in three separate ways in the historic environment assessment: embedded mitigation; additional mitigation measures and compensation.<sup>61</sup>
- 3.196 Early engagement between designers and historic environment professionals as well as an iterative design process including consultation with relevant stakeholders, has allowed embedded mitigation to shape the Scheme design to avoid or substantially reduce negative change to the significance of historic assets wherever possible. It has sought to compensate for the loss of historic significance through producing high quality new design responses and use of materials, that seeks to complement historic character, architectural style and aesthetics. The embedded mitigation has also sought within the Scheme to pursue enhancements and improvements to historic assets where this has been feasible and would bring heritage and public benefits.
- 3.197 These include retention of and visibility of as much original fabric as possible; definition between old and new material; protection panels/equipment to shield historic fabric; infilling of any openings in historic structures to be recessed and with appropriate material; new finishes and materials that relate to the character of the area and the historic structure; and avoidance of attaching fixings/new elements to historic structures.<sup>62</sup>
- 3.198 Where the embedded mitigation measures do not fully avoid or reduce impacts and effects, additional mitigation and compensation measures have been recommended. Additional mitigation measures include: screen planting; protective panels; noise barriers; compound arrangement and fencing; and toolbox talks. Compensation measures

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<sup>61</sup> Section 8.4 of Ms Rees-Gill's PoE

<sup>62</sup> Paragraph 8.4.2-8.4.5 of SoC [NR28]

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include historic building recording; archaeological investigation and recording; interpretation; and reuse of historic fabric.<sup>63</sup>

### **Conservation Implementation Management Plans**

- 3.199 In order to realise the embedded mitigation and heritage benefits and to guarantee the submitted additional mitigation and compensation to secure a high quality scheme, NR intends to produce CIMPs for each of the LBC schemes. These would be secured by condition as part of the consents. In conjunction with the proposed conditions for each LBC, the CIMPs would assure the quality of the finished product and of the performance of the consented works to each of the listed buildings.<sup>64</sup>
- 3.200 The key components of the CIMPs would be: Introduction; Strategic overview; Understanding the site – Heritage context and significance; Methodologies for works; Maintenance and Management schedules; Implementation and Review process; and Additional items as required – e.g., visualisations, material samples, survey results.<sup>65</sup> The CIMPs for Huddersfield Station and Huddersfield Viaduct would also include the production of an overarching design guide.

### **Conclusions on LBC applications**

- 3.201 As Ms Rees-Gill stressed in her oral evidence, she is confident that the designs put forward in the LBC applications are more than sufficient for the NR team to make fully informed judgements both on where harm to significance would occur and on the level of that harm in each case. Those assessments are unchallenged in evidence before the Inquiry. They are corroborated by the responses to the applications from HE and KC and in their decisions not to object to any of the applications or to the making of the TWA Order on heritage grounds. Detailed design work has yet to be completed and agreed through the discharge of the conditions to be attached to each of the LBCs (if consent is granted). However, neither HE nor KC has been impeded by any information gap from reaching a clear judgement as to the impact on the significance of the assets in question.
- 3.202 What then needs to be considered is the balance between the harm to the significance of each of the assets, the need for those works to deliver

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<sup>63</sup> Section 4.2 of Ms Rees-Gill's PoE

<sup>64</sup> Para 106, Closing Statement, INQ-41.

<sup>65</sup> Paras 4.6.4-.6 of Ms Rees-Gill's PoE

the Scheme, and the public benefits (including any heritage benefits) that would result from those works. The evidence clearly establishes that the Scheme cannot be delivered without the interventions to those assets for which LBC is required. All of those assets are railway assets that were built to serve the railway. However, that railway has evolved and changed since it was first constructed to meet the needs of increased passenger and freight demand and the development and lives of the communities that it serves.<sup>66</sup> The Order Scheme, in effect, adds the next phase or chapter in the continuing story of the railway so that it can continue properly to serve the towns and communities that it connects into the 21st century.

- 3.203 NR contend that it is difficult to conceive of a more obvious example of a development proposal which is designed to conserve and enhance the significance and to ensure the viable use of heritage assets than a scheme that seeks to restore a critical part of the NTPR to the functional, strategic and economic status that it originally enjoyed. NR submits that the LBCs are merited and ought properly to be granted as justified in accordance with the policy provisions of the NPPF and the development plan.

### ***Other Significant Heritage Assets***

- 3.204 Chapter 6 of the ES (Volumes 2i and 2ii) sets out a careful assessment of the impacts of the Scheme on the historic environment, including both designated and non-designated assets. Ms Rees-Gill's PoE also sets out her assessment of the impacts on: the Huddersfield Town Centre Conservation Area (paragraphs 3.1.16 & 4.4.60-62); The Calder and Hebble Navigation and River Calder Underbridges (3.2.17 & 4.4.63); the Railway Coal Chutes and Tramway with Walls and Gates at Hillhouse (3.2.18 & 4.4.68); Huddersfield Broad Canal, Locks and Bridges (3.2.19 & 4.4.71); and the Large Brick Warehouse (St George's Warehouse) in the former goods yard to the west of Huddersfield Station (3.2.20 & 4.4.78).

### ***Huddersfield Town Centre Conservation Area***

- 3.205 The Huddersfield Town Centre Conservation Area comprises the majority of Huddersfield's historic core including Huddersfield Station, the buildings around it and St George's Square, as well as the western end of Huddersfield Viaduct. The Conservation Area is bordered by the Ring

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<sup>66</sup> See paragraphs 8.3.4-8.3.6 of the SoC.



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Road in its northern half and extends down New Street and Queen Street to the south. It contains a large number of listed buildings, largely of commercial character and dating to the late 18th and 19th centuries, very much defining the townscape of the centre of Huddersfield.

- 3.206 The proposed Scheme involves alterations to Huddersfield Station and Huddersfield Viaduct which are both located within the Conservation Area. There would also be temporary impacts on the Conservation Area arising from the construction works and the location of a main compound on the former goods yard. Embedded mitigation has been proposed. In agreement with KC, a condition to be attached to the deemed planning permission would require that the CoCP for the stage of work relating to Huddersfield Station and Viaduct should include details of measures to be put in place to mitigate any impacts on the Conservation Area during the construction phase.
- 3.207 It has also been agreed with KC that, following the proposed mitigation, the residual effects on the character and appearance of the Conservation Area would be slight adverse.<sup>67</sup> NR considers that the public benefits of the Scheme justify that limited harm and that the proposal complies with the NPPF and the development plan in respect of the effect on the Conservation Area.

*Calder and Hebble Navigation Underbridge and River Calder Underbridge (Grade II)*

- 3.208 The Calder and Hebble Navigation Underbridge (MDL1/6) and the River Calder Underbridge (MDL1/8) are Grade II listed. They were designed by Thomas Grainger and constructed between 1846-1848 during the Heroic Age for the Leeds Dewsbury & Manchester Railway. They consist of parallel cast-iron arched girders, braced and tied, springing from stone abutments. The Calder and Hebble Navigation Underbridge has a single skewed span; and the River Calder Underbridge has two skewed spans and a central stone pier. The Stanningley Iron Works at Pudsey cast the ironwork. Believed to be the seventh oldest cast iron railway bridges to survive in the world, these bridges are increasingly rare on the operational network and showcase the design tastes and aesthetic qualities of the time. The main alterations to the bridges occurred in the

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<sup>67</sup> See the table on page 15 of the SoCG between NR and KC

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early 1980s, when the decks and railings were replaced in steel and concrete.<sup>68</sup>

- 3.209 With the construction of the new Baker Viaduct these two underbridges that carry the railway over the Calder and Hebble Navigation and the River Calder will be rendered redundant. Their setting will also be changed by the construction of the new viaduct. A Heritage Assessment has been prepared for these assets<sup>69</sup> and their significance has been assessed in a separate Statement of Significance prepared by Alan Baxter Associates [NR87]. The development and justification for the design of the preferred solution is set out in section 3 of the Heritage Assessment. This explains that, if re-used, the two cast-iron bridges would need to be largely reconstructed to provide sufficient structural capacity and design life to meet the project requirements. The conclusion was that this would be incompatible with the preservation of the special interest and value of the listed structures and would be unlikely to be granted LBC.
- 3.210 The design philosophy adopted for the new viaduct has been informed by extensive consultation with HE and KC. The proposed viaduct is a lightweight structure which will provide a contemporary design and engineering response to Grainger's Heroic Age bridges but which respects their setting, in particular by setting the alignment and height of the new structure to be almost level with the decks of the existing bridges. The new structure will preserve views of the cast iron bridges from the River Calder and the canal and will open up new views of these historic bridges for train passengers as they cross over the viaduct. Such views are not currently available to passengers travelling on the NTPR.
- 3.211 It is considered that, as a result of their redundancy, the two bridges would no longer be subject to the stresses of daily use and would not require major structural interventions to extend their future longevity. Nevertheless, a specific condition to be attached to the deemed planning permission would require the approval by KC of details relating to the future maintenance and monitoring of the condition of the redundant bridges as part of NR's wider responsibility for a large number and wide range of heritage assets.
- 3.212 The harm to the setting of these structures has been assessed as being less than substantial. The new Baker Viaduct is a critical engineering element required in order to deliver the Scheme and the significant public

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<sup>68</sup> Alan Baxter Associates, 2017. MDL1/6 & MDL1/8 Bridges Statement of Significance.

<sup>69</sup> Appendix 6-5 to Volume 3 of the ES [NR16B].

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benefits that would flow from its delivery. The harm to the setting of these assets would be outweighed by those public benefits.

*St George's Warehouse (Grade II)*

- 3.213 The Scheme requires permanent changes to Huddersfield Station such as the introduction of new roof canopies at the western side adjacent to the former goods yard and the large brick warehouse (St George's Warehouse) in that yard. The Grade II listed warehouse dates from 1878-83 and is constructed of red brick with blue brick strings and dressings and a yellow brick eaves cornice. It is a large building of up to five storeys in height, with the ground and second storeys designed to carry goods wagons: an adjoining wagon lift on cast iron columns lifted trucks to the upper of these levels. The hydraulic power for this came from the pump house across the goods yard, which also still survives. Although no longer used for its original purpose, St George's Warehouse forms part of a typical railway complex for an industrial town.
- 3.214 Full consideration was given to the potential effects on the setting of the warehouse, in particular when assessing the physical extent and bulk of the proposed canopies and their proximity to the wagon lift at its north east corner. These matters were discussed with HE and KC at a meeting on 30 July 2020, at which it was agreed that the proposed designs would avoid any concerns regarding an adverse effect on that setting. In Ms Rees-Gill's evidence she asserts that the design of the canopies sought to realise an enhanced setting for the warehouse and would help to restore the historic connection between the station and the buildings in the former goods yard and to better reveal the significance of the warehouse.
- 3.215 The approach adopted has been welcomed by HE who state in their original representation to the draft Order (May 2021) that:  
*"A key significance of the setting of the station to the west is its historic connection with the industrial buildings, such as the Grade II Listed St George's Warehouse (Large Brick Warehouse). The legibility of this historic relationship has been eroded in recent years. The new canopies take opportunities to open up new views (from the station) through to the warehouse and reconnect people's perceptions of this side of the station."*
- 3.216 An objection was submitted by HD1 Limited, the owners of St George's Warehouse and the land around it. This raised concerns about the effect of the proposals on the setting of the warehouse and the viability of their proposals for its restoration and re-use. HD1 did not appear at the Inquiry to present their evidence. NR's response to the written objection by HD1 is set out in section 7 of the report. Having regard to that response, NR asserts that Ms Rees-Gill's conclusion that the proposals would have a permanent slight beneficial effect on the setting of the

warehouse (which is endorsed by HE) is to be preferred. It is clear that the substantial public benefits of the Scheme would outweigh the less than substantial harm to the setting of the warehouse even if the SoS should conclude that any harm would be caused.

#### *Heritage Assets at Hillhouse Sidings*

- 3.217 The Coal Chutes and Tramway at Hillhouse Sidings are Grade II listed. They were built in 1900 by the London North Western Railway for the Huddersfield Corporation Tramways. They consist of 40 coal drops using timber, iron, and blue engineering brick with ashlar dressings. The boundary wall is of stone rubble, interrupted by two gateways.
- 3.218 There would be no direct physical changes to the former Coal Chutes or the Tramway although a construction compound is to be created to the north of the Coal Chutes. The works will result in some activity taking place within the former sidings but a buffer zone will be maintained around the heritage assets. There will be no permanent effect on the assets or their significance.

#### *Huddersfield Broad Canal, Locks and Bridges*

- 3.219 The Huddersfield Broad Canal is a non-designated asset that for the most part, runs in parallel with the Scheme route. Constructed between 1774 and 1776, it is a wide-locked navigable canal, approximately 6km long with 9 wide locks. It was bought by the Huddersfield & Manchester Railway company in 1845 and was in commercial use until the 1950s.
- 3.220 Number 2 Lock, Red Doles Lock (Lock 9 and Bridge 11), Fieldhouse (Lock 7) and Riddings Lock (Lock 6) and Hall Wood Lock (Lock 5) are Grade II listed. They were constructed at various times between 1774-80. They all have ashlar kerbstone, iron moorings and two wooden lock gates and depressed arch.
- 3.221 The location of a proposed compound at Ridings Underbridge (MVL3/39) and Peels Pit Underbridge (MVL3/100) has the potential to have a temporary effect on the setting of the Huddersfield Broad Canal, Riddings Lock and Fieldhouse Lock. Construction works at Deighton Station will also have a temporary effect on the setting of Hall Wood Lock and Red Doles Lock.
- 3.222 Mitigation for these potential effects is proposed through the implementation of environmental management measures as part of the CoCP which will limit visual, noise and dust infiltration in the area of the

canal and locks. The residual effect on the setting of these assets would be temporary slight adverse in EIA terms.

- 3.223 In the vicinity of No. 2 Lock, the Scheme works include the construction of the replacement Colne Bridge Road Bridge, the construction of the new Bradley Power Supply Plant and the incorporation of the Yorkshire Water sludge main into the Huddersfield Broad Canal bridge (MVL2/108S). The ES concludes that there would be a temporary moderate adverse effect on No. 2 Lock and a permanent adverse effect on its setting.<sup>70</sup>
- 3.224 The CoCP includes measures to reduce the impact on the lock during construction works. It is also proposed that, as part of the LEMP which will need to be approved by KC under Condition 4 of the proposed planning conditions, a planting plan should be produced to provide an improved future setting to the canal. Although the Canal and River Trust (OBJ35) had raised concerns about the effect of the proposals on the setting of the canal those concerns have been addressed through negotiation. As a result, the Trust chose not to appear at the Inquiry and the objection was withdrawn on 23 November 2021.
- 3.225 The permanent effects on the setting of Lock No. 2 would cause less than substantial harm and would be outweighed by public benefits that the Scheme would deliver.

### ***Summary of Effects on Historic Environment***

- 3.226 Due to direct works to the structures and/or development or works within their settings, the Scheme would result in significant residual effects and harm to the significance of twelve heritage assets. With reference to paragraphs 201 and 202 of the NPPF, NR concludes that the Scheme would:
- a) cause substantial harm to the significance of Wheatley's Colliery Overbridge (MVL3/103) and Colne Bridge Road Overbridge (MVL3/107); and
  - b) cause less than substantial harm to the significance of Huddersfield Railway Station, Huddersfield Railway Viaduct (MVL3/92), Mirfield Viaduct (MVN2/192), Calder (Wheatley's) Underbridge (MVN2/196), Occupation Underbridge (MDL1/10), Toad Holes Underbridge (MDL1/12), Ming Hill Underbridge (MDL1/14), Calder and Hebble Navigation Underbridge (MDL1/6), River Calder Underbridge

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<sup>70</sup> Main ES Volume 2ii Route Section 4 [NR16A]

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(MDL1/8) and Number 2 Lock.

- 3.227 Of the other designated heritage assets highlighted as having potential to be affected, NR concludes that the Scheme would result in no permanent residual effects to the significance of Huddersfield Town Centre Conservation Area and would, therefore, preserve its character and appearance. The Scheme would cause no permanent residual effects and would, therefore, not harm the significance of the Railway Coal Chutes and Tramway with Walls and Gates, Riddings Lock (Locks 6), Fieldhouse Lock (Lock 7), Red Doles Lock and the Large Brick Warehouse in the Goods Yard.

### **Public Open Space**

- 3.228 The Scheme requires the use of a number of areas of POS which lie alongside the railway corridor. NR has submitted requests for certificates to be issued under both s19(1)(a) and s19(1)(b) of the ALA to include powers to acquire those land parcels in the draft Order without the Order being subject to special parliamentary procedure. The detail and justification for those requests is set out in Core Document NR26.
- 3.229 In relation to the request made under s19(1)(a) (which applies to the majority of the POS affected by the Order), NR has provided for the acquisition and giving in exchange of other land within the Order limits which will be made available for the enjoyment of the public. For the land encompassed in the request made under s19(1)(b), which relates to certain small residual areas of POS of very limited extent, NR contends that no exchange land is required.
- 3.230 None of the areas of POS affected by these requests is in use as a fuel or field garden allotment and none forms part of a common. Each, therefore, is to be seen as land used by the public for informal recreation. The proposed Exchange Land will maintain that function. NR's substantive assessment and justification for the adequacy of the proposed exchange land is set out in detail in Chapter 20 of the Main ES, Volume 2i, in the amended form of that Chapter submitted as document INQ-13.<sup>71</sup>
- 3.231 NR has entered into an option agreement with KC to acquire the POS land required for the Scheme from the Council. Any trusts arising by virtue of that land being held by KC for the enjoyment of the public have already

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<sup>71</sup> Revised Chapter 20 corrected the areas of POS to be lost and deleted the reference to the Scheme resulting in a slight net gain in POS. These changes resulted from a rounding error rather than any change to the boundaries of the areas of POS affected.

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been extinguished.<sup>72</sup> The land remains in the Order, however, to ensure that it can be acquired with a fully cleansed title,<sup>73</sup> as provided for by Articles 44(2) and 45(1) of the draft Order.

- 3.232 The one remaining objector to the SoS's notice of intention to issue the requested certificates (OBJ46) did not appear at the Inquiry and his objection has been responded to in NR's evidence (see paragraphs 7.79 to 7.81 below). That evidence demonstrates that the land to be given in exchange will be equally accessible to and would equally serve the communities that are likely to use it. NR's position remains that there is no reason why the certificates which the SoS indicated, on 6 June 2021, that he was minded to issue should not be granted.

## **4. THE CASES FOR THOSE SUPPORTING THE SCHEME**

### **SUP03 Huddersfield Unlimited and Huddersfield Civic Society**

- 4.1 Huddersfield Unlimited (HU) and Huddersfield Civic Society (HCS) jointly submitted a written representation dated 17 May 2021 and a SoC in accordance with the 2004 Rules. They were represented at the Inquiry by Mr Hugh Goulbourne, a Non-Executive Director of HU.<sup>74</sup>
- 4.2 HU and HCS represent a working group whose aim is to lobby for the needs of businesses in and around Huddersfield on all matters that are transport related. In their representation and SoC the groups offer their support for the Order Scheme but indicates that this support is contingent on a number of conditions relating to climate change and recovery and connectivity concerns in respect of Huddersfield Station. The evidence they presented at the Inquiry was concerned only with connectivity and a perceived lack of car parking at the Station. The gist of their concerns is summarised as follows.
- 4.3 HU/HCS note that the figure on page 29 of the Design and Access Statement for Huddersfield Station [NR15A] has the notation "Future Car Park" on the former goods yard land to the west of the station. However, there appear to be no plans to provide a pedestrian link into or out of the station to this land and, from there, to Fitzwilliam Street. HU/HCS argue

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<sup>72</sup> Pursuant to the Local Government Act 1972, NR understands that KC has followed the prescribed procedure for advertising and disposing of the land comprising or forming part of POS.

<sup>73</sup> Pursuant to s19(3)(b) of the ALA.

<sup>74</sup> The general text of Mr Goulbourne's Statement to the Inquiry and the documents attached to it are in Document SUP/03 (Other Parties' POE on Inquiry Website)

that such a link should be included in the Scheme. The Scheme provides a 'once-in-a-generation' opportunity to provide access on the western side of the station for pedestrians and cyclists as well as the provision of good quality and safe cycle storage on this side of the station. Such provision would be fully consistent with and support the delivery of KC's aspirations for the Station Gateway and the St George's Warehouse as set out in the Council's Huddersfield Blueprint document [NR41].

- 4.4 The group believes that the Scheme should include this new link because the lack of connectivity with the station and the town centre is seen as a significant contributory factor in the failure, so far, of any proposals for the restoration and re-use of St George's Warehouse to come to fruition. The inclusion of such a link in the Scheme would, therefore, assist the viability of any future proposals for the warehouse.
- 4.5 The group considers that Huddersfield Station is deficient in terms of car parking and that inadequate parking provision acts as a barrier to rail travel from Huddersfield. Additional parking should, therefore, be provided as part of the Scheme. A failure to improve the level of parking provision would mean that the Scheme would not achieve the stated objectives; i.e. to "*increase capacity, improve journey times, and improve the reliability and resilience of passenger services*" on the NTPR as set out in the Statement of Aims [NR4]. Demand for car parking at the station will increase as passenger numbers return to pre-Covid 19 levels and continue on their former growth trajectory.
- 4.6 The Scheme should also include measures to improve the environment under the John William Street Bridge (Span 1 of the Huddersfield Viaduct). This is currently uninviting, particularly during the hours of darkness and is likely to be made worse as a result of the proposed widening of the bridge. The group is disappointed that no improvements to lighting or enhancement of the cladding under the bridge has been proposed. They point to the Dark Arches in Leeds as an example of the enhancement that might be achieved if such works were to be undertaken.
- 4.7 In June 2021, KC resolved to make an application for funding for complementary transport infrastructure schemes in the Station Gateway and Trinity Street areas. HU/HCS understand that, had KC brought forward fully developed and costed plans for the development of active travel plans in relation to the area around the station, NR would have been obliged to include further works within the scope of the Order. Nevertheless, they consider it important that the Order should be amended to ensure that the vital and complementary works proposed by the group can be carried out within the lifetime of the Order Scheme (i.e. before 2027).
- 4.8 HU/HCS have not submitted any detailed proposals for how the draft Order should be amended to reflect their concerns. In his responses to questions from Counsel for NR, Mr Goulbourne suggested that it might be possible to



place a 'condition precedent' on the Order (if it is made) that would require that meaningful progress be made in developing proposals for a new 'Station Square' (on land within the site of St George's Warehouse) and a new station entrance from the west. HU/HCS consider that the people of Huddersfield have been waiting for over 20 years to see regeneration of this area of the town centre and that such proposals are long overdue.

### **Supporters who did not appear at the Inquiry**

#### **SUP01 Transport for the North**

- 4.9 The letter submitted on 10 May 2021 by TfN states that the NTPR is an important economic artery and vital east-west spine, connecting the major conurbations across the north, for commuting, business and leisure. It is not currently well-placed to deliver its key enabling role in levelling up the northern conurbations and making them a more coherent and productive economic entity. Historic rationalisation of the infrastructure resulted in the NTPR having reached its capacity before the Covid 19 pandemic. The route was performing extremely poorly with only 38% of trains meeting the 'On Time' measure.
- 4.10 Unless investment is secured, the NTPR will remain a constraint to rather than being an enabler of building back the Northern economy. For these reasons TfN is fully supportive of TRU and the proposed TWA Order. The works proposed are a vital part of the TRU project and must be delivered as part of the long-term vision for the corridor.

#### **SUP02 Andrew Dunlop**

- 4.11 Mr Dunlop's representation of 16 May 2021 states that he is an enthusiastic supporter of the Scheme, having travelled on the NTPR route for many years and having experienced the problems caused by the lack of capacity due to the current 2-track operation and the lack of electrification on what is a very busy route.
- 4.12 Mr Dunlop makes comments about the provision for cyclists in the works for the replacement of the A62 Leeds Road Overbridge and the absence of proposals for the improvement of cycle provision under the John William Street Bridge (Span 1 of Huddersfield Viaduct). He is otherwise very supportive of the Scheme and Order.

#### **SUP04 West Yorkshire Combined Authority**

- 4.13 The representation submitted on 17 May 2021 by the WYCA was originally registered as an objection with the reference OBJ40. The WYCA submitted a SoC and PoE with the intention of presenting evidence in support of its concerns about the potential effects on the operation of and the plans for

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the upgrading of Huddersfield Bus Station and on bus services in the area affected by the construction works.

- 4.14 Those concerns were subsequently resolved through negotiations between NR and WYCA. A series of side agreements between the parties have put appropriate controls in place to minimise any adverse impacts. In an email to the Inquiry Programme Officer, dated 2 November 2021, [INQ-21A] the WYCA advised that they wished to be reclassified as a supporter of the Scheme (SUP04) and enclosed a copy of their letter to the DfT [INQ-21]. This confirms that their earlier concerns had been resolved and that there was no need for WYCA to appear at the Inquiry.
- 4.15 The SoC advises that WYCA is the transport authority covering Leeds, Wakefield, Kirklees, Bradford and Calderdale districts and plays a key role in planning for West Yorkshire's transport future. It states that the NTPR has not seen any significant investment for many years and that the Huddersfield to Westtown section is one of the most congested sections of the route. This is the main route between two major cities with large volumes of traffic using the railway, but the route suffers from poor performance. In the last three rail periods of 2019 the average Passenger Performance Measure for TransPennine trains using the route was 64%, while cancellations and significant lateness ranged between 13.2% and 25.2%. These statistics represent a significantly poorer performance compared to the rest of the country. Services on the NTPR were crowded and congested with journeys being both slow and unreliable.
- 4.16 From 1997/98 to 2019/20 the four stations in West Yorkshire (Deighton, Mirfield, Ravensthorpe and Huddersfield) experienced significant passenger growth, ranging from 93% to 320%. Whilst the long-term impact of Covid-19 remains uncertain, WYCA believes that the NTPR will continue to play an important role in economic recovery and regional connectivity and in meeting the ambitious target set by the region to become carbon neutral by 2038.
- 4.17 TRU is a vitally important, short to medium-term project for the North and the region which will bring long overdue additional rail capacity. WYCA supports the proposal because:
- a) NTPR is a key transport corridor and the Scheme is crucial to support economic recovery and growth and levelling up opportunities across the North of England.
  - b) The congested Scheme route is a key constraint on the capability and performance of the NTPR as a whole. The provision of a four track railway in this section is crucial to meeting the capacity and connectivity requirements of the region. WYCA therefore supports the increase in track and platform capacity and line speed improvements as outlined in the draft Order.

- c) The proposed electrification will assist in the decarbonisation of the network, improvement in journey times, and increased resilience of the railway in accordance with NR Decarbonisation Strategy.
  - d) Fully accessible stations should be the minimum standard for any modern railway. WYCA welcomes the Scheme proposals for Huddersfield, Deighton, Mirfield and Ravensthorpe Stations.
- 4.18 In its most recent letter to the DfT (which I understand was submitted in the last week of October 2021) WYCA reiterates its support for the Scheme and states that it looks forward to a commitment from the government to deliver the TRU programme without delay with full electrification, optimised line speed improvements, W12 gauge for freight, European Train Control and accessible stations in advance of a new NPR route.

### **SUP05 Kirklees Council**

- 4.19 KC initially objected to the draft Order and was registered as an objector (OBJ33). KC's SoC said that, while the Council recognises the need for the Scheme and is generally supportive of the draft Order, it had a number of concerns that needed to be addressed. The Council submitted a number of PoE in relation to some of these matters but did not attend the Inquiry to present any evidence.
- 4.20 Negotiations between NR and KC resulted in the withdrawal of KC's objections on 27 October 2021 and in a signed SoCG between the parties [NR-SOCG-1]. This refers to a number of side agreements having been entered into. A Summary Note [INQ-25] provides an outline of the main content and purpose of those agreements. KC's letter to the SoS, dated 5 November 2021, [INQ-20] confirms that the Council is now fully supportive of NR's Order submission as a means of securing the economic, environmental and social investment that the Scheme will undoubtedly bring to Kirklees District.
- 4.21 In its original SoC, KC states that it fully recognises and supports the principal outcomes of the Scheme, namely:
- a) A better railway with the doubling of the tracks, increased resilience and reliability, improved journey times and more frequent trains for passengers.
  - b) Accessible stations to modern standards.
  - c) A cleaner and quieter railway through electrification.
  - d) Increased capacity that will better connect communities and support economic growth.

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## **5 THE CASES FOR THE OBJECTORS**

### **Objectors appearing at the Inquiry**

#### **OBJ25 Kirklees Cycling Campaign**

- 5.1 The initial representation from Kirklees Cycling Campaign (KCC) was submitted on 17 May 2021. KCC submitted a SoC and a PoE in accordance with the 2004 Rules and were represented at the Inquiry by Chas Ball who is the Chair of the Group<sup>75</sup>. KCC seeks to promote improvements to cycling infrastructure and encourage everyday cycling. The gist of their submissions is set out below.
- 5.2 KCC believes that, as part of a multi-million pound upgrade of the railway, the Scheme should include the provision of pedestrian and cycle access from the western side of Huddersfield Station. The lack of such an access reduces opportunities to facilitate multi-modal travel and connectivity. Modern, two-tier cycle parking facilities are provided on Platform 1, beyond the ticket barriers. However, growth in cycling use would be assisted if cyclists were able to cycle to both sides of the station and use secure cycle parking facilities at both points of arrival. This would help provide a relatively seamless interchange for rail users arriving by bike.
- 5.3 KCC believes that the provision of a new western access for cyclists and pedestrians is supported by the DfT's Gear Change (2020) guidance. This states that cycling and walking measures should not be seen as an afterthought but should be at the very heart of transport policy and planning. Gear Change also states that cycling can make public transport journeys door-to-door, matching the convenience of the car and that the government will ensure that railways work better with cyclists.
- 5.4 KCC refers to the Huddersfield Blueprint [NR41] and its aspirations for the Station Gateway which include plans for St George's Warehouse and a new Station Square on part of the warehouse site. With enhanced pedestrian and cycling facilities, there would be a real opportunity to link the western side of the station with the rest of the town centre.
- 5.5 In response to questions from Counsel for NR, Mr Ball agreed that there were no published plans for the Station Gateway or Station Square proposals and that these were at an early stage. He stated that KCC is aware of the pressure on local government funding and is disappointed that proposals for a new link from the western side of the station have not been presented as part of the Scheme. He accepted that the land to the west is privately owned (HD1 Developments) and that HD1 might have their own ideas about how this should be used and laid out. He also agreed that the compulsory purchase powers available to KC could provide another means of securing any land needed for the proposed access and Station Square but

was concerned that this could take many years. He confirmed that KCC do not wish to delay the TRU programme and Scheme.

#### **OBJ42 Veolia ES (UK) Limited**

- 5.6 Veolia ES (UK) Limited (Veolia) is the freehold owner of and operator of a waste management site located on the north side of Ravensthorpe Road, Dewsbury.<sup>76</sup> As set out in section 6.39 of Mr Billingsley's PoE, part of the site is required to enable the diversion of an NGN gas pipeline and to undertake works on the railway and for the works to Calder Road Bridge. At the Inquiry, Veolia's representative, Mr Roberts, confirmed that the Ravensthorpe Road site is a garage for waste collection vehicles with lorry parking, maintenance workshop, driver mess facilities and an office. No waste management or transfer operations take place at the site.
- 5.7 Following their appearance at the Inquiry, Veolia's Legal Department sent an email to the DfT, on 2 December 2021, stating that the company had agreed heads of terms with NR. It advised that, on completion of a legal agreement in accordance with those terms, Veolia intends to withdraw the objection. As no withdrawal was received before the close of the Inquiry I have treated this as a remaining objection. The main gist of the objection is set out in the Supplementary Objection submitted on 16 November 2021 [INQ-22] and is summarised below.
- 5.8 The proposed temporary closure of and associated works to Calder Road will require that vehicles using the Veolia site be diverted via Ravensthorpe Road and some residential roads as indicated on the plan attached to the supplementary objection. Due to a height restriction under the railway bridge on Forge Lane, the majority of their HGVs will have to use Lees Hall Road and Ingham Road which are residential streets. As operations start at 04.00 AM, Veolia is concerned about the disturbance that this might cause to residents and the consequential adverse effect on the company's reputation as a good and considerate neighbour.
- 5.9 The temporary use of part of the site as a construction compound will cause severe disruption to Veolia's operations. NR has proposed a temporary lorry park for Veolia's use on the opposite side of Ravensthorpe Road. On the basis of their experience as an HGV operator, Veolia consider that they would require a new HGV Operator's Licence for that site in order to allow its authorised use. They are concerned that this might not be granted by the Traffic Commissioner or, if granted, that it might include onerous

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<sup>75</sup> The general text of Mr Ball's oral evidence is set out in Document OBJ/25/1 within the 'Other Parties Proofs of Evidence' folder on the Inquiry website

<sup>76</sup> The Order Plots in which Veolia has a legal interest are Plots 21-053, 054, 056, 058, 063, 065, 066 and 070 as shown on the Order Plans [NR09] and BoR [NR08]

conditions which could adversely affect their ability to operate from the site. Their current Operator's Licence is free of any such conditions. At the Inquiry, Veolia argued that NR should, instead, have offered the company an alternative site to which a permanent relocation could be effected before the works are commenced to minimise the disruption to their operations.

- 5.10 In response to questions from Counsel for NR, Mr Roberts agreed that Veolia had not specifically asked the Traffic Commissioner's Office whether a new Operator's Licence would be needed for the temporary lorry park but had asked what information would be needed to make an application for a new licence. Veolia think it is clear that a new licence will be needed. Mr Roberts acknowledged that Veolia had received further information from NR about the phasing of the works in the written commitments given to Veolia by NR [INQ-30] and had been provided with a basic specification for the temporary lorry park. However, he considers that more detailed proposals would be needed before an application for an Operator's Licence could be made and that NR had not given any assurances that the works would not be commenced before a new Licence has been issued.

### **REP03 The Environment Agency**

- 5.11 As noted above, the EA's initial representation was registered and recorded as within the 'other representation' category. However, when they appeared at the Inquiry, it was apparent that the EA had two areas of concern that amounted to substantive objections to the Scheme and draft Order. One of these, relating to the modelling underpinning the FRA prepared by NR was subsequently resolved and that objection was withdrawn on 8 December 2021.<sup>77</sup> The other objection remains as an objection to the draft Order.
- 5.12 This is concerned with Article 6 within the draft Order. The effect of Article 6(1) is to disapply the operation of Regulation 25 of and Part 1 of Schedule 5 to the Environmental Permitting (England and Wales) Regulations 2016<sup>78</sup> (EPR) [NR104] in relation to an application made by NR to the EA for the surrender of an environmental permit under paragraph (2) of Article 6. Paragraph 2 of Article 6 would then replace the disapplied provisions and authorises NR, on application to the EA, to request the surrender of an environmental permit that has either been issued to the original permit holder, or transferred by the EA under the EPR, for the operation of a regulated facility on the land specified in Article 6(6).
- 5.13 As set out in sections 8.8-8.10 of Mr Pearson's PoE, Article 6 has been included in the draft Order in relation to the proposed compulsory

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<sup>77</sup> See the Further SoCG between the EA and NR [INQ-39A].

<sup>78</sup> SI 2016 No. 1154

acquisition of land for the authorised works at Thornhill Quarry Landfill Site in Ravensthorpe that is currently subject to an existing environmental permit for landfill operations. The land required for the Scheme would be permanently taken for the works and would not be returned to the landfill site operator. NR considers that, although a transfer of the environmental permit may be possible under the EPR, the Regulations do not provide for the eventual surrender by NR of that permit in the context of NR's use of the land for railway purposes and not for the operation of the regulated facility (in this case landfill) for which the permit was issued.

- 5.14 NR considers that similar issues would arise in relation of the Forge Lane Quarry site, in respect of which the Order seeks the permanent acquisition of a small area adjacent to the railway and the temporary possession of approximately 33% of the total site area during the construction works.
- 5.15 Under the provisions within Article 6, NR would follow broadly the same process in respect of the surrender of the environmental permit as is required under the EPR. This would be the case, in particular, in terms of submitting for EA's approval plans that detail the measures to be taken for avoiding any risk of pollution in respect of the works authorised by the Order or the original use of the site, and for returning the site to a satisfactory state on the completion of the construction of the authorised works. The key difference in terms of process would be that Article 6(4)(b) states that the application for the surrender of the permit and related plans shall be deemed to have been approved by the EA if approval is neither given nor refused within 2 months of the submission of the plans for approval.

### ***EA's Grounds of Objection***

- 5.16 The EA asserts that Article 6 in the draft Order is unacceptable in principle. It argues that the EPR set out the regime for the control of landfill sites to protect the environment from pollution. The EPR should only be disapplied if there is a clear justification for doing so. NR has not set out such a justification.
- 5.17 NR's concerns appear to be centred on its belief that the EPR do not contemplate a situation in which a permit is transferred to an operator who will not be operating a landfill site but will be using the land for a different purpose. The EA does not agree with that interpretation. In support of its position the EA refers to advice in the Defra Guidance on Environmental Permitting and, in particular, to paragraph 7.2 of that guidance which states:

*"Other than in exceptional circumstances operators should remove any contamination and return the site to the original condition. However, where an operator can robustly demonstrate that it is unsuitable or impractical to do this, then the contamination should be removed as far as possible."*

- 5.18 The EA also refers to Defra's Environmental Permitting Guidance: The Landfill Directive and, in particular, to the following paragraphs:

4.2.16 *"The Environment Agency must satisfy the requirements of Article 13(d) (Schedule 10, paragraph 11) of the Landfill Directive when it determines an application to surrender the environmental permit."*

4.2.17 *"It is important to note that at surrender, a site may not be suitable for all development. It simply confirms that the Environment Agency considers that additional or active control measures are unlikely to be required to prevent pollution or harm as a result of emissions from the undisturbed site. Development work which disturbs the contents of the site or which introduces a new receptor will not have formed part of that decision."*

- 5.19 The EA considers that if a development has planning permission then the surrender application must consider the impact of that development on pollution risk. The EA can see no reason why NR cannot achieve what it needs to do in the normal way under the EPR. If Article 6 is retained in the Order in its current form there would be a risk that any works might be carried out to a lower standard in terms of protection for the environment and that its inclusion would set a precedent for other TWA Orders, development consent orders and similar legislation.

- 5.20 The EA also objects to the deemed approval provision within Article 6(4) which is contrary to the normal approach in which a person applying to surrender a permit has a right of appeal to the SoS if the application is refused or where a decision is not forthcoming. The EA does not believe that the arbitration provisions put forward in Article 6 are an appropriate means of resolving any dispute. It states that the normal appeal route is to be preferred and is also concerned that Article 6 does not include any enforcement provisions equivalent to those in the EPR.

- 5.21 At the Inquiry I put questions to Ms Bolt, Solicitor for the EA, about the application of Regulation 21, and of Paragraph 13 of Part 1 to Schedule 5 of the EPR, in relation to the EA's ability to approve a transfer of an environmental permit to a person or body who did not intend to be an operator of the regulated facility or to operate the facility in accordance with the permit. Ms Bolt indicated that she did not consider that these provisions would create a barrier to the transfer of a permit to NR in the circumstances envisaged in this case. In response to my question as to whether there were precedents for such a transfer, she replied that she understood from colleagues in the organisation that similar transfers had been approved but could not provide any specific examples.



- 5.22 NR's response to the EA's objection and justification for the retention of Article 6 is set out in the Applicant's Rebuttals section of the report in section 7 below.

### **Objectors Not Appearing at the Inquiry**

#### **OBJ01 Lawton Yarns Limited and P41 Limited**

- 5.23 P41 Limited is the freehold owner and Lawton Yarns Limited the occupier of premises located on Huddersfield Road (A644) in Dewsbury<sup>79</sup>. Lawton Yarns use the site for the manufacture of woollen yarns. The Order seeks the temporary possession and use of part of the site to enable the demolition of the NPG electricity pylon located within the site and to undertake associated works.
- 5.24 The written objection, dated 8 April 2021, states that access to the River Calder (on the south eastern boundary) is required for the abstraction of water used in the production process and that the service yard is needed for daily HGV deliveries to and from the premises. The objector sought confirmation that access and egress to the factory would be maintained throughout the Scheme construction programme. It also raised concerns about the relocation of the overhead cables on the future use and development of the site.
- 5.25 NR has advised in its evidence that meetings and discussions have taken place in relation to the objections and that a letter of commitments about how the works would be undertaken in relation to the site has been sent to Lawton Yarns. No further information or statement has been submitted by the objectors.

#### **OBJ02 Brendan Kitson**

- 5.26 Mr Kitson's objection, dated 8 April 2021, stated that he had found it impossible, from the application documents, to identify which public footpaths and bridleways are proposed for temporary or permanent closure or diversion. No further statement has been submitted by the objector.

#### **OBJ03 Richard Kelly**

- 5.27 Mr Kelly's objection, dated 18 April 2021, is a wide ranging complaint about alleged failures and unlawful actions by the DfT and alleged corruption within national and local government. The submission does not include any

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<sup>79</sup> The Order Plot numbers in which P41 and Lawton Yarns Ltd have a legal interest are Plots 23-001,002,004,005,007,008,010,013,015,016 and 107.

specific objection to the content or scope of the draft Order or the works proposed as part of the Scheme. The objection includes a reference to (seemingly unspecified) alleged failures of applicants to properly inform and consult on major projects and suggests the use of “*devious strategy*” to get around all possible opposition. However, the objection does not particularise how NR is alleged to be guilty of any such failures in respect of the Order Scheme or associated applications.

- 5.28 The objector’s home address is in a village to the south east of Huddersfield, at some distance from the route of the NTPR. No further statement or information has been submitted by the objector.

### **OBJ05 Northern Powergrid (Yorkshire) plc**

- 5.29 The representation from NPG, dated 23 April 2021, states that NPG is a statutory undertaker for the electricity network in Yorkshire and that it must ensure that its assets are protected and that supplies are not put in jeopardy or compromised. It states that it is NPG’s standard procedure, when receiving notice of an application such as NR’s, to formally object to the draft Order. The objection is intended to serve as a ‘safeguard’ to encourage consultations between NR and NPG to discuss the implications of the Scheme. The objection will stand until such time as NR provides written confirmation that it will be responsible for all associated costs of any diversion of NPG’s apparatus, plant or equipment that may be required as a result of the Scheme.
- 5.30 NPG has a legal interest in a large number of land parcels included in the Order, as detailed in Appendix 1 to Mr Billingsley’s PoE. The main rights sought by NR are to facilitate the relocation of NPG’s apparatus to enable the Scheme works to be undertaken. This includes the relocation of overhead powerlines including 132 kilovolt (kV) lines that are carried on pylons.
- 5.31 On 23 November I received a letter from Weightmans LLP, acting as agent for NPG [INQ-27]. This confirms that NPG does not object in principle to the Order provided that NR is able to agree adequate protective provisions in favour of NPG. The letter states that NPG considers that the protective provisions set out in Part 1 of Schedule 19 to the draft Order are inadequate. It also asserts that, given the dangerous and highly specialised nature of the apparatus involved, it is inconceivable that works could safely be carried out without adequate provisions being in place. Neither this letter, nor the initial representation, provides any explanation as to in what way protective provisions currently proposed by NR are considered to be inadequate.
- 5.32 INQ-27 states that negotiations with NR are progressing but that NPG will not withdraw the objection until an agreement has been executed as a deed by NPG and NR.

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## **OBJ12 Northern Gas Networks**

- 5.33 NGN is a licensed gas transporter which owns and operates the gas distribution network in the North of England. The Scheme requires the relocation of some of NGN's apparatus, in particular a high pressure gas main in Ravensthorpe.
- 5.34 The representation of 12 May 2021 states that NGN considers that the protective provisions set out in Part 1 of Schedule 19 to the draft Order do not provide sufficient protection for the gas network. NGN objects on this basis. NGN proposed that a Private Asset Protection Deed be entered into in respect of its assets in place of the protective provisions in the draft Order. NPG's letter indicated that, if NR agreed to enter into a deed based on this model, the objection could be withdrawn. The letter confirmed that discussions with NR had already commenced with a view to agreeing terms for any necessary diversion of gas apparatus needed for the Scheme.
- 5.35 NR have advised that the terms of a Design Diversion Agreement in connection with the diversion of the high pressure main have substantially been agreed.<sup>80</sup> There is also a Master Agreement in place with NGN that regulates the relationship between the parties and includes obligations as to the diversion or removal of any NGN apparatus.<sup>81</sup> No further information or statement was submitted by NGN before the Inquiry closed.

## **OBJ14 Yorkshire Children's Centre**

- 5.36 The National Children's Centre (trading as Yorkshire Children's Centre (YCC)) is a national charity that owns the Grade II listed Stone Warehouse to the west of the Station known as Brian Jackson House<sup>82</sup>. YCC occupies part of the building as its Head Office and lets some space out to other occupiers. YCC staff currently park on land within the former goods yard to the west of Huddersfield Station and take access to those spaces and to the building's service entrance through the land that is proposed to be used as a main compound for the station construction works. The draft Order seeks powers to impose a restrictive covenant on YCC's building to ensure that no works are undertaken close to the OLE that is to be installed as part of the Scheme.
- 5.37 YCC submitted an initial objection, dated 13 May 2021, a SoC and PoE for two witnesses who YCC intended to call at the Inquiry. Their representative (Mr Farr of Sanderson Weatherall) attended the Inquiry on Day 2 and asked

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<sup>80</sup> Paragraph 6.10.5 of Mr Billingsley's PoE

<sup>81</sup> Paragraph 6.10.1 of Mr Billingsley's PoE

<sup>82</sup> The Order Plots in which YCC has an interest are: 3-078 & 79, 3-084 and 3-090.

questions of NR's witness on the Scheme construction (Mr Pedley). YCC subsequently notified the Inquiry Programme Officer, on 8 November, that heads of terms had been agreed with NR which resolve their substantive concerns and they no longer considered it necessary to present any evidence to the Inquiry. As the objection had not formally been withdrawn by the close of the Inquiry I have treated this as a remaining objection. The objections can be summarised as follows:

- a) The Scheme will result in the loss of all access to the rear of Brian Jackson House for a period of 3-5 years, so depriving YCC of access for deliveries and refuse collection.
- b) The Scheme will result in the permanent loss of the car parking on part of the former goods yard that YCC has used for many years and this loss will lead to uncertainty as to the future use and maintenance of a prominent listed building.
- c) NR has failed to put in place arrangements for the future repair and maintenance of Brian Jackson House.
- d) Concerns that the restrictive covenant proposed by NR could prevent future works to the building.

**OBJ15 Kinder Properties Limited; OBJ16 DP Realty Limited; OBJ45 R&D Yorkshire Limited<sup>83</sup>**

5.38 Objections on behalf of these parties were submitted by Gateley Hamer who were jointly instructed to represent them. Kinder Properties is the freehold owner of the Castlegate Retail Park which occupies an island site between Huddersfield Viaduct, Fitzwilliam Street, St John's Road and Unna Way. DP Realty Limited (trading as Domino's) have a leasehold interest in Unit A at and is also the landlord in respect of an underlease of Unit A to R&D Yorkshire Limited (also trading as Domino's). Part of the car park at the retail park is required on a temporary basis for works to Huddersfield Viaduct that would last for several weeks over two distinct periods. It would also be necessary, on a temporary basis, to close the existing egress from the retail park via Green Street onto Fitzwilliam Street. In agreement with KC, NR proposes that the access to the retail park from St John's Road be used for both in and out movements for the temporary period during which construction works are taking place.

5.39 Gateley Hamer submitted both a SoC and PoE. They subsequently indicated that agreement had been reached with NR about their concerns and that

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<sup>83</sup> The relevant land parcels are: Kinder Properties: 4-004-5, 4-007-10, 4-017, 4-019-20, 4-025-26, 4-033, 4-039, 4-041, 4-043, 4-046, 4-049; DP Realty: 4-008 & 4-020; R&D Yorkshire: 4-008 & 4-020.

they no longer considered it necessary to appear. This was confirmed in their email of 11 November [INQ-44] but the objections had not formally been withdrawn by the close of the Inquiry.

- 5.40 The objections set out concerns about the lack of clarity as to the nature, impact and duration of the proposed works and their likely effect on the operation of the retail park, access to the retail park, and the number of parking spaces that would be taken out of use on a temporary basis. Clarification was also sought as to the nature and extent of any permanent land take proposed.

### **OBJ23 HD1 Developments Limited**

- 5.41 HD1 Developments Limited (HD1) is the freehold owner of the St George's Warehouse and the immediately surrounding land to the west of Huddersfield Station<sup>84</sup>. That part of the site which forms part of the former goods yard is required for temporary use as the main compound for the works to Huddersfield Station and Viaduct. NR also seeks the imposition of a restrictive covenant on the warehouse to ensure protective provisions in relation to the OLE lines that will run close to the building as well as a permanent right of access through the HD1 site so that access to the railway can be taken in perpetuity.
- 5.42 HD1 submitted an initial objection, dated 14 May 2021, a SoC and a PoE produced by Mike Bottomley of mb Heritage. HD1 subsequently advised that they no longer wished to appear at the Inquiry and requested that Mr Bottomley's PoE be accepted as a written representation [OBJ/23]. The gist of their objection is as follows.
- 5.43 Mr Bottomley's statement asserts that NR's submission in support of the LBC application in respect of Huddersfield Station includes limited consideration of the significance of other designated heritage assets outside of the station, including St George's Warehouse. In respect of the detailed proposals for the station he considers that:
- a) The removal of Roof B will result in the loss of historic fabric within the setting of the warehouse and of a feature that makes a positive contribution to views of the warehouse from Westgate and Fitzwilliam Street.

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<sup>84</sup> The plots in which HD1 has a legal interest are: 3-055, 3-063, 3-070, 3-074, 3-091a, b & c, 111, 3-116 & 3-121

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- b) The proposed design of the new canopies will contrast with the retained Roof A and their visual impact will detract from the heritage value of the views from Westgate and Fitzwilliam Street.
  - c) The new canopy and platform will be in close proximity to the east face of the warehouse and the wagon lift at its north east corner. This will remove the visual separation of the warehouse from the station canopies and draw the eye away from the warehouse in views from the north and south.
  - d) The proximity of the new canopy to the warehouse will, to some degree, diminish the extent to which the east façade of the building can be viewed, including from views within the station.
  - e) The visual impact of the new canopy will be particularly pronounced in views from Westgate and St George's Street which currently take in a predominantly 19th century townscape.
  - f) The outlook from St George's Warehouse to the east will be impacted and regard should be had to the effects of greater activity and light spillage on the building which could affect its potential future use.
  - g) Overall the new roof canopies will have a significant visual impact on the setting of the warehouse which would constitute less than substantial harm having regard to the policies in section 16 of the NPPF.
- 5.44 Mr Bottomley notes NR's assertion that there will be a better visual connection between the station and St George's Warehouse but thinks this needs to be considered in the context of the separate ownership of and future plans for the warehouse. He has been advised that the planning permissions obtained for the restoration and re-use of St George's Warehouse in 2006 and 2007 remain extant. HD1 are concerned that NR's proposals could adversely affect the plans for an external pedestrian stair and lift and viewing platform and on the outlook from any residential or office units that might be provided in the building. It is important that the Order Scheme should not prejudice the future use and adaptation of the Grade II listed warehouse. This would be contrary to the guidance, in paragraph 197 of the NPPF, about the desirability of sustaining and enhancing the significance of heritage assets and considering viable uses consistent with their conservation.
- 5.45 HD1's SoC outlined additional concerns about the proposed restrictive covenants and their potential effect on the future use of St George's Warehouse, the permanent effect on the boundary between the station and the HD1 site and of the permanent right of access that is sought in the draft Order. Concerns were also raised about the use of the HD1 land for a construction compound for the duration of the works and the loss of income that would flow from the temporary inability of HD1 to use that land for car

parking as currently takes place. HD1 also contends that the Scheme would result in the redevelopment proposals for St George's Warehouse being deferred for at least 5 years, giving rise to significant loss of revenue and additional holding costs.

### **OBJ27 Charities Property Fund**

- 5.46 Citiclient (Cof) Nominees Limited and Citiclient (Cpf) Nominees No 2 Limited (The Charities Property Fund (CPF)) is a common investment fund similar to unit trusts but which is designed specifically for charities. The CPF owns part of a roadway, verge, woodland and hardstanding near to Bradley Retail Park<sup>85</sup>. The land is required by NR to deliver works No 9A (works close to the A62 Leeds Road) and No 10 (the realignment of Colne Bridge Road).
- 5.47 The letter of objection, dated 17 May 2021, states that CPF consider that an excessive amount of land is being taken to facilitate the works. The site lies immediately to the west of Colne Bridge Road and the turning space for delivery vehicles between the building and road is vital for the tenant's operations. Any impact on the use of this area as a turning circle would have economic implications for the tenant. CPF seeks binding assurances with regard to the preservation of access to the turning circle during operational hours and that the bridge over the railway line (which provides the only access into and out of the site) will remain open during operational hours.
- 5.48 Although not submitted as an objection to the LBC application in respect of Colne Bridge Road Overbridge (LBC4), the representation also questions whether the test in paragraph 195 of the NPPF (that the substantial harm to the heritage asset should be demonstrated as being necessary to achieve the public benefits of the Scheme) is met in this case.
- 5.49 No further statement or information has been submitted by the objector.

### **OBJ30 DG Asset Enterprises Ltd**

- 5.50 In their representation (17 May 2021) DG Asset Enterprises Ltd (DGA) advised that they had exchanged contracts to acquire the freehold of a unit to the west of Colne Bridge Road<sup>86</sup> and that completion of that purchase was (then) imminent.

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<sup>85</sup> The Order Plots in which CPF has an interest are: 10-056, 10-059, 10-063-64, 11-004, 11-007, 11-103-14, 11-016, 11-037, 11-040-41 & 11-043.

<sup>86</sup> The Order Plots in which DGA has an interest are Plots 11-002, 11-009, 11-010, 11-011, 11-012 & 10-061.

- 5.51 As shown on the Plan within Appendix 1 to Mr Billingsley's PoE, parts of Plots 11-002, 11-009 and 11-012 are required for temporary access only. Part of Plots 11-010 and 11-011 are required for construction works (culvert works) which will be fenced off during the works with access to the existing substation being maintained. Plot 10-061 and part of 11-002 is needed only for temporary occupation for construction works and a compound which will also be fenced off.
- 5.52 DGA stated that the proposed Order will interfere with their land interest. The use of compulsory purchase powers is considered to be premature as NR has not sought to acquire the interests by agreement. The land concerned is a significant part of the external area to the unit and is required for HGV turning, loading bays and parking. Plot 11-009 provides the only access to the unit.
- 5.53 NR has advised that a unilateral undertaking has been offered to DGA. No further information or statement has been submitted by the objector.

#### **OBJ34 Taurus Investments Limited and OBJ37 Mamas and Papas**

- 5.54 Taurus Investments Limited (Taurus) is the freehold owner of a building (Unit 1) to the east of Colne Bridge Road, Bradley<sup>87</sup> which is occupied by Mamas and Papas as their Head Office, with a warehouse, stores, office accommodation and a factory shop. The land to be acquired as part of the Order mainly comprises part of the access to Unit 1 and its staff parking area, along with some ancillary woodland and areas of verge. Most of this land is required on a temporary basis to facilitate the construction of the new bridge and railway at Colne Bridge Road. Permanent rights of access over part of the site are also sought as is the permanent acquisition a small strip of land on which a new embankment to support the railway would encroach.
- 5.55 Taurus submitted both a SoC and a PoE in accordance with the Inquiry Procedure Rules but subsequently advised, prior to the opening of the Inquiry, that they were in negotiations with NR and did not consider it necessary to attend the Inquiry. Mamas and Papas sent a letter of objection dated 17 May 2021 to the SoS but have not submitted any further information or statements in support of their objection.
- 5.56 The grounds of objection relate to the effect of the proposals on the access, servicing, circulation and parking for Unit 1 and the uncertainty as to the

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<sup>87</sup> The Order Plots in which Taurus and Mamas and Papas have an interest are: 10-061, 11-002, 11-005-6, 11-009-12, 11-017-19, 11-021-22, 11-02427, 11-029, 11-030-33, 11-48.



duration of the works. The objectors argue that the proposals could have a significant adverse effect on the operation and use of the premises and could cause disruption to the Mamas and Papas business. They state that NR had not entered into any meaningful negotiations with them prior to the submission of the TWA application. Taurus also query whether funding for the Order Scheme is in place and whether a proper cost benefit assessment has been undertaken that takes account of the compensation that might need to be paid to affected businesses.

- 5.57 NR advises that unilateral undertakings have been offered to both parties in respect of the nature and duration of the works in order to minimise the impact on the operation of the unit. Although I was advised at the start of the Inquiry that the Taurus objection was likely to be withdrawn both objections remained at the Inquiry closing date.

### **OBJ36 Dewsbury Riverside Limited**

- 5.58 Dewsbury Riverside Limited (DRL) is the freehold owner of land adjoining Ravensthorpe Road. This forms part of a larger area of land allocated in KC's Local Plan Allocations and Designations Document (2019) (LPADD) for a substantial mixed use development, including up to 4,000 new homes. The allocation is a key site within the North Kirklees Growth Zone and the LPADD anticipates that 1,869 of the new homes will be delivered within the current Local Plan period (2013-2031).
- 5.59 There is an Outline Planning Permission (OPP) for 120 dwellings on land to the east of the DRL land (to the rear of the existing residential properties on the south side of Ravensthorpe Road). The access approved as part of the OPP runs to the rear the existing residential properties, through the DRL land to a new T junction with Ravensthorpe Road opposite the existing access to the Veolia site (the DRL junction). The approved junction is considered to have capacity for up to 700 dwellings and would be used for other development within the allocation site.
- 5.60 The DRL land<sup>88</sup> is required for temporary access and for the works involved in the construction of the new Ravensthorpe Station and the realignment of Calder Road. Permanent acquisition of parts of the land is needed for the construction of the new roundabout junction between the realigned Calder Road and Ravensthorpe Road, the access and forecourt to the new Ravensthorpe Station, for utility diversions including new electricity pylons,

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<sup>88</sup> The Plot References in which DRL has a legal interest are: 19-025-26, 19-030-31, 19-033-34, 10-036-37, 19-039-40m 19-042, 21-007, 21-009 & 9a, 21-012, 21-016 & 16a, 21-027, 21-031, 21-033 & 33a, 21-034, 21-036m 21-044, 21-053 & 21-054.

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and for the provision of new POS in exchange for part of the existing POS to be acquired under the Order.

- 5.61 DRL submitted a 9 page letter of objection to the draft Order but did not submit a SoC and did not attend the Inquiry. The grounds of objection can be summarised as follows:
- a) The proposed works will directly interfere with the delivery and/or use of the DRL junction. They will affect the delivery of the 120 dwellings for which OPP has been secured and, potentially, the delivery of the wider housing allocation in the LPADD.
  - b) The works will adversely affect DRL's plans for the construction of a new road connecting with the DRL junction to serve the development of other land within the allocated site. In connection with this matter, DRL has concerns about the deliverability of NR's proposals for a 4 arm roundabout to be constructed as part of its works which would also give access to the Dewsbury Riverside development site.
  - c) The land which NR propose to take as Exchange Land will result in the sterilisation of a substantial proportion of the DRL land, thus reducing the developable area of the site. This could materially impact on the viability of developing the rest of the DRL site.
  - d) The permanent acquisition of other land within DRL's ownership will also reduce the developable area of the landholding and affect the viability of DRL's development proposals. This could lead to reduced housing numbers being delivered on this strategic allocation site in the LPADD.

#### **OBJ44 Mrs Newton**

- 5.62 Mrs Newton is the owner and occupier of the property served by the private access road under Occupation Underbridge (MDL1/10). Her objection (incorrectly registered initially as being from Mrs Neslin) was submitted in response to the publication of the notices of the making of the application for LBC in respect of this Grade II listed structure. However, it is clear that her concerns are focused on the loss of the existing access to her property and the possible consequences in terms of the loss of her home if a satisfactory alternative access is not provided.
- 5.63 The letter makes no reference to the listed status or historic significance of the Underbridge. I have, accordingly, treated this an objection to the draft Order and the proposed acquisition of the land which currently serves as her access.
- 5.64 Although she had some contact with the Programme Officer, Mrs Newton did not attend the Inquiry and has not submitted any further statement or information in support of her objection.

- 5.65 Mrs Newton's house and garden is not affected by the Scheme but the proposed infilling of Occupation Underbridge will result in the removal of the existing vehicular and pedestrian access to her home<sup>89</sup>. As set out in the LBC application, these works are required to facilitate the four track operation of the railway as it crosses over this bridge. An alternative access to Mrs Newton's house has been proposed by NR.
- 5.66 The grounds of Mrs Newton's objection are:
- a) She questions how the Scheme can go ahead when rail passenger numbers have fallen to 20% of pre-Covid levels and are unlikely to recover. In this context, the savings in journey time that the Scheme will deliver are small and the cost of the Scheme is unjustifiable.
  - b) She has always maintained the land of both sides of the Underbridge and co-operated with NR. She questions why Occupation Underbridge needs to be infilled when Toad Holes Underbridge is not proposed for similar treatment.<sup>90</sup>
  - c) An alternative access has been suggested but no amount of compensation would be likely to take into account the cost of the granny flat, kennels and garages which also form part of her land holding and of its extensive site area.

### **Remaining Objection to the Application for Certificates in relation to POS**

#### **OBJ46 Ian Forbes**

- 5.67 Mr Forbes is a resident of Dewsbury and submitted his objection in response to the Notice that the SoS was minded to issue the certificates requested by NR under s19 of the ALA.
- 5.68 Mr Forbes considers that the methods being adopted by NR in respect of this matter is, in effect, a way of "*bypassing the planning rules and laws*". He contends the land to be acquired is not open space. It mostly comprises land that lies adjacent to or alongside existing residential properties and the accesses roads and paths that serve those properties. The Order does not make it easy to understand what land is to be taken and what land is to be given in exchange.

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<sup>89</sup> The Order Plots in which Mrs Newton has a legal interest are: 25-054, 25-057, 25-059, 25-061 & 25-063.

<sup>90</sup> This is seemingly a misunderstanding on the objector's part since the infilling of Toad Holes Bridge is also proposed as part of the Scheme – see details of LBC8 application for this asset as set out in section 3 of the report.

- 5.69 Given his assertion that the land affected is not POS but land serving residential estates, he considers that the proposals will have a large effect on residents of the immediate locality and wider area in their day to day lives. The Covid pandemic has affected local communities very badly. The loss of these areas and the limited footpaths in the area would adversely affect the ability of local people to recover from the pandemic in both the short and longer term.
- 5.70 In a previous letter to the DfT (attached to his July 2021 representation), Mr Forbes raised concerns about the effect of the draft Order on local footpaths and PROW in the Ravensthorpe area which have been used by local people for very many years. Any reduction in the number of PROW, on a temporary or permanent basis, would have a greater impact because there are very few footpaths in the area. He is also critical of NR's public consultation and publication of the proposals which have made it very difficult to understand what the impact on PROW will be.

## **6. OTHER REPRESENTATIONS**

- 6.1 At the close of the Inquiry there were 3 general representations in respect of the TWA Order application remaining. These are summarised below.

### **REP01 Longley Holdings Limited**

- 6.2 This representation, dated 17 May 2021, was submitted by Longley Holding Limited care of Ibstock Brick Limited of Ibstock in Leicestershire. It relates to an area of commercial buildings and hardstandings to the north of Ravensthorpe Road occupied and used by Longley Concrete (see plan attached to the representation). Part of this site is required for temporary possession as a work site and for access for construction works and temporary utility diversion works, comprising the relocation of overhead power lines.<sup>91</sup>
- 6.3 Longley Holdings did not object to the draft Order but requested a meeting with NR to discuss how their operations and future development proposals might be affected. They are concerned that the proposed location of the new power lines might compromise their plans for the expansion onto land immediately to the south of their existing operational site.

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<sup>91</sup> The land affected is Plot 21-111

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## **REP02 Historic England**

- 6.4 The representation, dated 17 May 2021, stated that HE does not object to the making of the Order on heritage grounds subject to:
- a) The timely production and agreement of the CIMPs for each of the LBCs that are sought as part of the Scheme; and
  - b) Detailed drawings and visualisations to show the extent of the heritage impact.
- 6.5 The initial representation stated the HE is broadly supportive of the Scheme as a whole and its objectives and of the TWA application, subject to a number of issues being resolved. These issues or concerns were listed as being the lack, within the application submissions, of:
- a) a clear mechanism to mitigate harm and to secure the proposed benefits; detailed drawings for Huddersfield Station; and
  - b) detailed drawings and visualisations for the listed bridges to show the impacts of the Scheme.
- HE said that they supported the use of CIMPs but without such documents being available now, there is a lack of clarity about what the Scheme will deliver for the historic environment.
- 6.6 There has been further correspondence between NR and HE as recorded in INQ-07. This correspondence followed a meeting between the parties on 1 September 2021. NR's letter dated 28 September 2021 set out a detailed response to the concerns raised in HE's representation and a summary of what had been discussed and agreed at the meeting. NR's note of that meeting is attached to the letter.
- 6.7 HE's brief response, dated 22 October 2021, states that, as it did not intend to appear at the Inquiry, HE was unwilling to enter into a SoCG with NR. The letter also declined to provide a formal response to NR's letter of 28 September. This is stated to be HE's standard position and not specific to this application or Scheme.
- 6.8 The October 22 letter states that HE's view on the proposals remains as set out in the initial representation. However, HE did acknowledge the further discussions held with NR, in particular NR's commitment to develop a design guide and indicative palette of materials for Huddersfield Station. This accords with the approach suggested by HE.
- 6.9 HE concurs with NR's assessment of the level of harm to significance in respect of each of the 9 designated assets for which LBC is sought. In the absence of any objection from them to the LBC applications, it follows that HE also accepts that, in each case, this harm is outweighed by the public benefits of the Scheme. In respect of the two assets that would suffer substantial harm to their significance, HE also accepts that the harm is

necessary to secure those benefits. HE states that ensuring that this pioneering railway is fit for purpose and continues to perform its designed function, adapting to advances in technology, helps to maintain the heritage significance of the route.

- 6.10 HE's key concerns are about what they perceive to be a lack of detail in the submission to show how the harm will be mitigated and the claimed heritage benefits will be secured. The existence of such a potential 'information gap' (i.e. between the application submissions and the level of detail needed to ensure that the harm to the historic fabric and features is minimised and that the interventions proposed to minimise loss and to repair or replace original features is of sufficient quality) was fully explored at the Inquiry through the questions that Inspector Cullen and I put to NR's heritage witness and in our assessment of the LBC applications and supporting information. HE's comments on the individual LBC applications can be summarised as follows.

### ***LBC1 Huddersfield Railway Station***

- 6.11 HE welcomes the retention, repair and redecoration of Roof A and the reinstatement of the lantern as major benefits of the Scheme. The loss of two bays of Roof A will cause serious and irreversible harm but HE accepts that this is needed for the Scheme. HE supports the unapologetically contemporary design of the new canopies and footbridge and considers that the new canopies will open up views to St George's Warehouse and reconnect people's perceptions of this side of the station. The retention of the tea rooms on the island platform is welcomed but HE advises that an appropriate methodology will be required for its dismantling, storage and reconstruction.
- 6.12 HE has concerns about the lack of final detail in the scheme drawings and comments on the need for a consistency of style and design for each of the new interventions to ensure that their impact on the character of the station is appropriate. HE recommends that the CIMP should include a Design Guide for the new works including a materials palette.

### ***LBC2 Huddersfield Railway Viaduct***

- 6.13 HE agrees that the proposed works have been sensitively designed and will result in less than substantial harm to the asset.

### ***LBC3 Wheatley's Colliery Overbridge***

- 6.14 The majority loss of the listed bridge will result in substantial harm but HE acknowledges the embedded mitigation in the design of the new abutments. The design of the replacement bridge does not fully realise the advice that HE provided about the need for a high quality, bespoke solution that draws out the heritage significance of the site. There is a lack of detail as to how

the heritage significance of this part of the route might be presented within the Scheme proposals.

#### ***LBC4 Colne Bridge Road Overbridge***

- 6.15 The demolition of a substantial portion of the bridge would result in substantial harm but the retention and sensitive infilling of the remaining two arches will allow the form of the structure to be understood. There is insufficient detail about how the heritage significance and qualities of the listed structure and its original alignment are to be interpreted and highlighted.
- 6.16 As a result of the substantial loss of Colne Bridge Road and Wheatley's Colliery Overbridges there will be an adverse impact on the group value of the bridges designed by A S Jee but the group would, substantially, survive. The impacts to the other bridges would amount to less than substantial harm.

#### ***LBC5 Mirfield Viaduct***

- 6.17 The installation of OLE portals would have a minor impact on the viaduct. That impact has been reduced by the sympathetic positioning of the portals, resulting in less than substantial harm. HE suggests that repairs to the listed structure should be a top priority.

#### ***LBC6 Calder (Wheatley's) Underbridge***

- 6.18 The installation of OLE portals in the manner proposed will impact on the appearance of the listed structure. This will result in some harm to its aesthetic value, equating to less than substantial harm. Repairs to the structure should be a priority.

#### ***LBC7 Occupation Underbridge***

- 6.19 The total infill will end the asset's function and alter the way it is experienced. Together with the widening of the embankment, this will cause harm to the significance of the structure. The embedded mitigation in the form of sensitive infilling and a masonry clad wall on the south-eastern side will serve to maintain the aesthetic value of the bridge.

#### ***LBC8 Toad Holes Underbridge***

- 6.20 The total infill and deck reconstruction will cause harm to the significance of the asset. However, the cast-iron edge girders will be retained and the infill panel will be clad in masonry facework by way of mitigation of that harm. Justification for the harm that would be caused lies heavily in the opportunities for recording and better revealing the significance through interpreting historic context.

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### **LBC9 Ming Hill Underbridge**

- 6.21 The total infill and deck reconstruction proposed will cause harm to the significance of the asset. The cast-iron edge girders will be retained and the infill panel will be clad in masonry facework by way of mitigation. Justification for the harm that would be caused lies heavily in the opportunities for recording and better revealing the significance through interpreting historic context.
- 6.22 HE advises that the group value of the Thomas Grainger bridges along the Scheme route will not appreciably be diminished by the proposed infilling of these 3 underbridges.

### **Setting of River Calder and Calder and Hebble Navigation Underbridges**

- 6.23 HE notes the efforts made by NR, in terms of the design of the proposed Baker Viaduct, to reduce the impacts on the setting of these two Grade II listed structures. They agree that the impact on their setting will be less than substantial.
- 6.24 The redundancy of the two bridges is of major concern. HE does not consider that NR's proposal that they will be preserved as unused assets is sufficient to ensure that they are maintained in good order. Plans should be put in place for a new function for these structures. The CIMP should include a maintenance plan for the fabric and explain how a sustainable future use for the bridges might be secured.

### **REP03 The Environment Agency**

The EA representation, of 17 May 2021, has effectively been overtaken by the SoCG, and Further SoCG, between the EA and NR [INQ-39 and 39A]. These documents confirm that, with the exception of the EA's objection to Article 6, the EA has no outstanding concerns about the proposed Scheme, the draft Order or the ES (as amended by the Appendix 4 to the SoCG in respect of the FRA).

## **7. APPLICANT'S REBUTTAL OF OBJECTIONS**

*The following paragraphs summarise NR's response to the remaining objections set out in section 5 of the report, dealing with each of the objectors in turn.*

### **SUP03 Huddersfield Unlimited and Huddersfield Civic Trust and OBJ25 Kirklees Cycling Campaign**

- 7.1 NR's response to the concerns raised by HU/HCS (who were registered as a supporter of the Scheme) and KCC is summarised under one sub-heading as these parties raised similar issues. NR notes that the objection by KCC, which was supported by HU/HCS, constituted the only significant



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case made at the Inquiry in response to the works for which the Order seeks authorisation.

- 7.2 That case was to criticise what they saw as a lack of ambition, on NR's part, in failing to include works for the development of a new station entrance to the north-western side of Huddersfield Station within the scope of the Order. Both parties confirmed in oral evidence that they support the delivery of the operational enhancements to the existing railway that the Order seeks to deliver. However, they wish NR to go further by providing a new entrance for pedestrians and cyclists as part of the Scheme so that these works might act as a catalyst for the delivery of KC's aspirations for a new Station Gateway and Square as envisioned in the Huddersfield Blueprint document [NR41].
- 7.3 The dilemma facing those 'critical friends' is that expanding the scope of the Order beyond its stated core objectives would inevitably give rise to a need to amend the draft Order. For that to be achieved in practice, it would be necessary to revisit the Scheme design, the land acquisition and possession requirements and the ES. Those tasks would inevitably entail significant delay to the making of the Order and to the delivery and completion of the Scheme. Indeed, if the Order were to be expanded to include the proposed compulsory acquisition of the land or rights needed to deliver a new station entrance (for example, in relation to the HD1 site) which are not encompassed by the current draft Order, that would require a new application to be made (s14 of the ALA). But it is common ground that early delivery of the Scheme is a pressing objective in order to achieve the much needed improvements to the operation of the NTPR.
- 7.4 NR accepts that it is possible to envisage a situation in which the case for extending the Order application to include the provision of a new station entrance was so obviously compelling that it would override the uncertainty and delay that would be caused to the delivery of the Scheme for which the application has in fact been made. The case presented by KCC and HU/HCS is, however, emphatically not such a case.
- 7.5 The Station Gateway is at best an inchoate policy aspiration. Although initially adopted as a Supplementary Planning Document (SPD), the Huddersfield Blueprint foundered (and had to be de-adopted by the Council) because HD1 (a key landowner) apparently had such strong reservations about the document that it was prepared to mount a legal challenge against its adoption as an SPD. At present there is no detailed plan or brief for the Station Gateway concept under which any detailed proposals for a new station entrance could be drawn up, or against which any draft proposals could be assessed to ensure that it fitted with the wider proposals.
- 7.6 It is important to note that the Scheme would not prevent or prejudice the future provision of a new entrance from the north-western side or the delivery of a new Station Gateway on this side of the station. Indeed, the

works proposed to Huddersfield Station make passive provision for such an entrance. In paragraph 4.1.6 of his PoE, Mr Thomas explains that the subway extension proposed as part of the Scheme is designed to facilitate the removal of the end wall (see plan at INQ-29] and that the platform 5&6 stairs and lift have been arranged in a manner which allows for a possible further extension of the subway into the St George's Warehouse Site. The new footbridge at the Leeds end of the station has also been designed to enable its future extension by the addition of a span link to one of either a future Bay Platform 7 or to a building within the HD1 site. Hence, the draft Order facilitates those future proposals to the limited degree that is justified and proportionate with the current inchoate state of KC's regeneration aspirations for the land to the north west of the station.

- 7.7 It was correct and reasonable for Mr Ball (on behalf of KCC) to acknowledge, in response to NR's questions, that in the circumstances as they now are, the right course is to proceed with the making of the Order (as now proposed in Document INQ-10A) and the Scheme in its current scope and form. To delay and put in jeopardy the improvements that would be delivered by the Order and Scheme would be a clear misjudgement of where the public interest lies. That assessment is reinforced by the government's subsequent publication of the IRP.
- 7.8 Mr Thomas responds to KCC's concerns about the lack of any proposals for additional cycle parking as part of the Scheme at paragraph 4.1.21-4.1.26 of his PoE. He accepts that, should detailed proposals for a new Station Gateway on the north-western side come forward, it would be sensible for additional cycle parking to be considered. However, the Scheme proposals will retain the existing secure cycle parking on Platform 1 and will make it easier for passengers to take a cycle on the train via the new lifts and stairs which will serve both the new footbridge and the extended subway. The entrance to the new footbridge will be in very close proximity to the cycle parking on Platform 1. This will result in a substantial improvement over the current arrangements for cyclists. The Gear Change guidance is to be read in conjunction with the guidance in Local Transport Note 21 and the scheme complies with that guidance.
- 7.9 In his oral evidence, Mr Rivero explained that the Scheme has been designed to include and respond to a number of detailed Scheme requirements which had been agreed with DfT at an early stage of the design process. Those requirements did not include the need, at the present time for the creation of a new access from the western side or for increased parking provision at the station.

#### **OBJ42 Veolia ES (UK) Limited**

- 7.10 NR's response to Veolia's objections is set out in Document INQ-31 and the PoE submitted by Messrs Thomas and Billingsley. NR has submitted a letter of Commitments to Veolia, dated 25 November 2021, [INQ-30] which confirms in writing what has been discussed between the parties.

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This sets out detailed commitments: re the staging of the construction works so as to minimise disruption to Veolia's site operations; to meet the reasonable and proper costs of the temporary relocation of Veolia's HGV parking to the alternative site on the opposite side of Ravensthorpe Road; to reinstate parking at their existing site on completion of the works; and to give Veolia at least 6 months' notice in advance of any construction works in the vicinity of their site.

- 7.11 The refinements proposed to the Calder Bridge Road Bridge replacement<sup>92</sup>would result in the relocation of the proposed new roundabout junction to the east by about 45m and would bring this closer to the Veolia site. The new access to the site would still meet the specification previously proposed, with 50m visibility splays to the east and west (see Appendix B to INQ-24). There would be no change to the proposals for the alternative lorry park for Veolia's use during the construction and service diversion works and no change to the temporary or permanent land take.
- 7.12 Access to Veolia's garage will be maintained throughout the construction works, although there will be some temporary closures of Calder Bridge Road, during which the company's HGVs will need to use alternative routes to and from the site. The impact of additional traffic using the alternative route via Ravensthorpe Road and Forge Lane was assessed as part of the TA. The TA concluded that significant impacts would be likely to occur on 3 roads within Route Section 6 when both the Ravensthorpe and Thornhill Road/Fall Lane compounds are in operation. As these effects are associated with the temporary closure of Calder Bridge Road they are likely to be experienced for a maximum period of 5 months during which that closure is needed. The use of Ingham Road and Lees Road was not modelled for the TA. However, NR assess that the additional Veolia HGVs that might need to use that route would result in an increase in peak vehicle movements on these roads of less than 10%. These are not anticipated to cause any additional or new congestion on these roads.
- 7.13 The ES has assessed the changes in road traffic noise resulting from construction traffic and diversion of other traffic in the vicinity of the Veolia site. It concluded that there could be moderate increases at two noise sensitive receptors (dwellings) on Forge Lane. Although these impacts are significant in EIA terms they would be experienced for a maximum of 5 months. The effects would be mitigated by the measures which are expected to be included in the CoCP and CTMP. Using the data within the ES for Thornhill Road, it is expected that the proportion of HGVs using Ingham Road and Lees Hall Road would increase to no more than 5% of all traffic as a result of the temporary closure. On a worst case assumption, this could lead to a 1dB increase in noise levels which would not be a

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<sup>92</sup> See NR's Calder Bridge Design Refinement Note [INQ-24]

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significant impact. A dedicated Community Relations Team will act as the first line of response in dealing with enquiries and complaints from the local community before the construction works are commenced.

- 7.14 As confirmed in INQ-31, the works in Ravensthorpe are predicted to last for about 2.5 years rather than 5 years as the objector suggests. During those works, access to the Veolia site will only be required for 2 shorter periods. One of these, early in the programme for the gas service diversion works would be for about 6 months. The second, towards the end of the 2.5 year programme, would be for about 12 months during the construction of the railway cutting adjacent to the Veolia site. The alternative HGV parking would be made available for Veolia's use before any of the works commence.
- 7.15 During both periods of the works requiring access to Veolia's land, any construction activities on that land will be securely fenced. A separate access for construction vehicles will be provided from Ravensthorpe Road. Access to the rear of the Veolia maintenance workshops will be maintained at all times. At the end of the works, parking spaces for Veolia's HGVs will be reinstated on their own land in a reconfigured layout including an extended area to be provided to ensure parking for 30 vehicles.
- 7.16 If necessary, NR will assist Veolia to apply for and secure an HGV Operator's Licence for the land to be used as a temporary lorry park. However, NR does not consider that a new licence will be required. Mr Roberts confirmed, in cross-examination, that Veolia have not asked the Traffic Commissioner's Office whether a new licence would be required but has simply assumed that this would be the case. Having regard to the terms of the existing licence [INQ-36] there is no good reason for that assumption. On the evidence available it is reasonable to assume, if a new Operator's Licence should prove to be needed, both that this would be granted and that it would be granted on the same terms and conditions as the existing licence. Mr Roberts did not point to any obvious reason why this would not be the case. Although the temporary parking would be on the opposite side of the road, the only practical difference in terms of HGV movements is that vehicles would need to turn left instead of right into the site.
- 7.17 Veolia will be able to submit a claim for compensation for any loss as a result of NR's temporary and permanent possession of land within their site in accordance with the compensation provisions explained in section 4 of Mr Billingsley's PoE.

### **REP03 The Environment Agency**

- 7.18 The competing arguments between NR and the EA as to the need for Article 6 to be included in the Order are set in full in section 4.2 of the SoCG [INQ-39]. NR's position can be summarised as follows.

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- 7.19 The draft Order empowers NR to acquire land at both Thornhill Quarry and Forge Lane Quarry. In each case, the land is required for permanent engineering works that are critical to the delivery of the Scheme; i.e. the improvement of the railway between the intersection flyover at Ravensthorpe and the Baker Viaduct, the construction of the Baker Viaduct itself, and construction of the Static Feeder Converter Station. Both of the former quarries are operational landfill sites with the landfilling operations being carried out under the provisions of an environmental permit.
- 7.20 Environmental permits do not run with the land on which the regulated facility is in operation. The compulsory acquisition of land under the provisions of the Order would leave the environmental permits in the hands of the current operators. Moreover, NR's objective in acquiring the land is to develop and use it for rail engineering purposes and not for the purposes of operating a landfill site. Hence, NR would not be using the land for any of the operations regulated by the permit.
- 7.21 Paragraph 13 of Part 1 to Schedule 5 of the EPR [NR104] appears to prohibit the EA from granting an application to transfer an existing environmental permit unless the transferee will be the operator of the regulated facility (here a landfill site) and will operate the facility in accordance with the permit. Neither will be true and, hence, it is questionable in law whether the EA could approve such a transfer.
- 7.22 Neither would NR be able to apply for the surrender of the existing environmental permits under Regulation 25 of the EPR, even if the permits could be transferred, since NR will not be the operator of the regulated facilities. Regulation 25(2) states that, by application, an operator may surrender an environment permit but makes no provision for an application for surrender to be made by any person who is not the operator of the regulated facility.
- 7.23 The obvious conclusion to be drawn is that the EPR neither contemplate nor make provision for the situation that is in prospect in the case of the draft Order; i.e. where land forming part of a regulated facility is acquired for the purposes of railway engineering works that will displace that facility. The guidance that the EA cites in support of its position, as set out in section 4 of the SoCG, do not support the contrary view that the EA takes. Indeed, that guidance does not address the point at all.
- 7.24 Article 6 will address the problem as it provides a bespoke procedure for the surrender of an environmental permit. It will avoid the uncertainty as to whether and, if so, how a transfer and surrender could be achieved under the EPR. At the same time, Article 6 places on NR substantially the same pollution control and remediation duties that would apply when making an application for the surrender of an environmental permit under Regulation 25 of the EPR.

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- 7.25 In response to the EA's concerns, NR has extended the bespoke procedure set out within Article 6 by the addition of new paragraphs 6(5)-6(6) and (8) as set out in paragraphs 4.2.7-4.2.8 and Appendix 3 of the SoCG. These amendments seek to ensure that the EA would retain regulatory supervision and control over the performance of the measures to be carried out under Article 6(3) (to avoid a pollution risk from the construction and operation of the authorised works and to return the site to a satisfactory state on completion of the works) and to provide a mechanism for the resolution of disputes arising from any application to the EA that is made under Article 6.
- 7.26 NR submits that the extended provisions of Article 6, as set out in document INQ-10A, provide a scheme of environmental control and protection in respect of the land to be acquired within the regulated facilities which is, in practice, as effective as that which would apply for the purposes of an operator's application for surrender of the permits under Regulation 25 and paragraph 14 of Part 1 to Schedule 5 to the EPR. There is one material difference between the two regimes: the deemed approval provision set out in Article 6(3)(b) of the draft Order. That provision is justified since it would avoid any risk of delay to the works that are on the critical path for the Scheme and which would otherwise arise simply from a failure to determine NR's applications to surrender the permits in a timely way.
- 7.27 For these reasons, in addition to those set out in paragraphs 4.2.2-4.2.10 of the SoCG, NR requests that Article 6 be retained in the Order in the terms set out in Appendix 3 of the SoCG and the amended draft Order in INQ-10A.

#### **OBJ01 Lawton Yarns Limited and P4 Limited**

- 7.28 The rights sought under the Order in respect of this land are limited to air rights and the temporary possession and use of part of the site to enable works for the demolition/removal of the electricity pylon within the site. These works are necessary for the relocation of the overhead electricity cables that is needed as part of the Scheme. The works will not interfere with Lawton Yarns' access to the river for water abstraction purposes.
- 7.29 NR has had meetings with the objectors and has issued two letters of commitment dated 22 September and 15 November 2021. The most recent (Appendix 1 to INQ-03A) states that NR has yet to agree a programme of works with NPG for the removal of the pylon but expects that the works will be undertaken between May 2023 and May 2024. NR has committed to provide 3 months' written notice prior to exercising its powers of temporary possession in relation to the site.
- 7.30 The 3 November letter indicates that the works to the pylon and cables are likely to take approximately 3 weeks. It states that the duration of the temporary possession will be confirmed as part of the notice to be given 3

months in advance. In the letter of 22 September (also at Appendix 1) NR undertook to use reasonable endeavours to limit the duration of temporary possession of specific parts of the site so as to minimise disruption to Lawton Yarns' site operations. It has also committed to the carrying out of photographic surveys of the areas of land subject to temporary possession both before and after the works.

- 7.31 NR contends that the works are essential for the implementation of the Scheme. NR will take all reasonable steps to limit the period of temporary possession and to minimise disruption to the objector's business operations.
- 7.32 The acquisition of air rights is necessary to enable the relocation of the overhead cables. The objectors will be able to make a claim for compensation in the event of any loss arising from the temporary possession or the relocation of the overhead cables.

### **OBJ02 Brendan Kitson**

- 7.33 It is clear from the BoR and Order plans that Mr Kitson does not own or occupy any land or property that would be directly affected by the Scheme. NR has written to Mr Kitson to inform him where the information on which footpaths and bridleways are to be closed or diverted can be found within the application documents. The PROW that will be subject to temporary closures are listed in Table 14-10 of ES Volume 2i within Chapter 14 of the ES [NR16A]. Those which are to be stopped up or permanently diverted are detailed in Schedule 4 Part 1 of the amended draft Order [INQ-10A].

### **OBJ03 Richard Kelly**

- 7.34 Mr Kelly, a resident of Lepton, raises a number of concerns regarding signage on various national and local highway authority roads and corruption within government. His concerns do not appear to relate specifically to the Order Scheme.

### **OBJ05 Northern Powergrid**

- 7.35 Protective provisions for the protection of NPG are within Part 1 of Schedule 19 to the draft Order. These provisions are well preceded in other orders made under the TWA. They strike the right balance between ensuring that the Scheme can be delivered and whilst ensuring the NPG's apparatus and interests are properly protected.
- 7.36 Where diversions or other works to utility services are required as a result of the Scheme, the draft Order contains the land and powers necessary for those works to be undertaken. The land required has been the subject of discussions with each of the public utility companies to ensure (as far as reasonably practicable) that the necessary land is available to enable the diversions or other works to be carried out in a timely way (and early in

the overall Scheme construction programme) and without prejudicing the timely and economic delivery of the Scheme. NR has held a number of discussions and workshops with NPG, dating back to February 2019, at which practical and technical issues relating to the necessary works have been discussed. Discussions between the parties continue.

- 7.37 In its representations NPG's main concern appears to be that it is unreasonable that NR should be able to invoke the terms of existing wayleave agreements to require NPG to lift and shift its apparatus affected by the Scheme. Instead, it contends that NR should indemnify NPG for the costs of any such works under modified protective provisions.
- 7.38 NR rejects that complaint. It submits that it is reasonable to resort to existing wayleave agreements in order to secure the lifting and shifting or diversion of apparatus affected by the Scheme. As detailed at paragraph 6.5.10 of Mr Billingsley's PoE, there is a Master Agreement in place between NPG and NR which provides a right for NPG apparatus to cross NR land and property, as well as a series of supplemental wayleaves with the same effect. Where apparatus is governed by that Master Agreement or by an existing wayleave, notices have already been served by NR (on 19 November 2020). These have the effect of triggering the period within which the necessary service diversions must be carried out in accordance with the terms of the Master Agreement or wayleave. As such apparatus is governed by the terms of these existing agreements it is outside of the scope of the protective provisions in Schedule 19 of the Order.
- 7.39 Where any diversions or works needed cannot be secured under an existing agreement NR will need to invoke the powers under Part 1 of Schedule 19. In that case, NPG will enjoy the full range of protection that is conferred by the protective provisions in Part 1.
- 7.40 NPG has included, within its representations, an alternative set of protective provisions. NPG has not attempted to explain or justify why these should be substituted for the provisions already set out in Part 1 of Schedule 19. Despite the repeated requests made by NR, NPG has declined to meet to discuss its concerns about the protective provisions in the draft Order and has not provided any further information in relation to these. In the absence of any evidence or analysis, either to support specific changes to the existing provisions or their wholesale substitution, there is no justifiable basis for making changes to the provisions as set out in the draft Order. Those existing provisions are designed to ensure that continuity of the electricity supply is maintained (paragraphs 6(1)(2) and 9) and that the utility company is reimbursed the reasonable costs and expenses of any diversion or other works to apparatus under the powers of the Schedule and of repairs or losses resulting from the exercise of those powers.



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## **OBJ12 Northern Gas Networks**

7.41 The objection by NGN is effectively a holding objection which is unsupported by any substantive evidence or argument. The points made above in response to NPG's objection also apply to the objection by NGN. Again, an existing agreement regulates the relationship between the parties as regards the NGN apparatus on NR land and property. This includes obligations as to the diversion or removal of apparatus if required by NR for works to the railway. The powers within the Order are, however, required to facilitate any diversions or works that are not covered by that existing agreement. The protective provisions will provide full protection to NGN in relation to these assets. In addition, the terms of a side agreement between the parties, which seeks to address some of the concerns raised by NGN, has substantially been agreed (paragraph 6.10.6 of Mr Billingsley's PoE).

## **OBJ14 Yorkshire Children's Centre**

7.42 As indicated in Mr Farr's email to the Programme Officer on 8 November 2021, heads of terms have been agreed between NR and YCC which resolve YCC's objections to the Scheme. Although Mr Farr asked questions of one of NR's witnesses YCC did not present any evidence to the Inquiry in support of their objection. An engrossed agreement, based on those heads of terms, was issued on 2 December 2021 and was in the process of being executed by NR and YCC at the close of the Inquiry, at which point the objection had not formally been withdrawn.

7.43 NR's detailed response to the objection is given in the evidence presented by Messrs Thomas, Vernon, Pedley and Billingsley who all set out their subject specific rebuttals to the objection. The key points of these rebuttals can be summarised as follows:

- (a) The proposed layout for the main compound on the former goods yard at Huddersfield Station makes provision for emergency vehicle access to both Brian Jackson House and St George's warehouse and will allow for refuse collection from both<sup>93</sup>. Planned deliveries to Brian Jackson House can be facilitated through the construction compound site by prior agreement with the site manager. The main access to Brian Jackson House will not be affected by the construction works or Scheme.
- (b) The parking area currently used by YCC staff, immediately to the rear of Brian Jackson House, will not be available during the construction works but there is ample parking available in public car parks nearby. However, the land to the rear of Brian Jackson House is in NR's ownership and NR does not accept that YCC has any legal right to

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<sup>93</sup> See Figure 4-15 in Mr Pedley's PoE.

park on that land. NR also understands that YCC does not enjoy a right of access across the adjacent (HD1 owned) land in order to access the land that they claim to have used for parking.

- (c) The boundary of the proposed improvement works in relation to the eastern façade of Brian Jackson House is determined by the position of track 5. This cannot be moved further to the east because of the need to accommodate the new island platform and other works at the station (see station layout drawing and long section in figures 3-17 and 3-18 of Mr Thomas's PoE). This will prohibit vehicular access (at track level) to the eastern and southern façade of Brian Jackson House but the proposal does not prevent emergency access to the northern gable end of the property.
- (d) The proposed works are sufficiently distant from the eastern façade of the building such that the occupants of Brian Jackson House will still be able to open windows for ventilation. Any future works to that elevation would need to be agreed with NR to ensure that these can be safely carried out in close proximity to the OLE. As with other parties, YCC will be able to make an application for compensation if any impact on the value of the property or other loss resulting from the Scheme can be demonstrated.

**OBJ15 Kinder Properties Limited, OBJ16 DP Realty Limited and OBJ45 R&D Yorkshire Limited**

- 7.44 As indicated in Mr Strafford's email to the Programme Officer dated 11 November 2021 [INQ-44], agreement has been reached which resolves the concerns raised in these objections. The objectors did not appear at the Inquiry. Engrossed agreements in relation to each of the objectors were issued on 25 November 2021. These have been executed by NR and were awaiting execution by the objectors at the close of the Inquiry. As indicated in Mr Strafford's email the objectors intend to withdraw their objections once the agreements have been executed.
- 7.45 NR's response to the objections is provided in the evidence presented by Messrs Thomas, Foulkes, Pedley and Billingsley. It can be summarised as follows.
- 7.46 Although the main compound on the former railway goods yard will support the works to Huddersfield Viaduct, additional land will be needed adjacent to the work site itself. This is required for the siting of the requisite lifting equipment (large mobile cranes); the handling and removal of the existing sections of deck and structures which are to be removed; and the delivery and installation of replacement structures. During periods when these works are being carried out a portion of the Castlegate Retail Park is required for the siting of the cranes. The temporary closure of the adjacent road will be needed for large vehicle access and parking (see Figure 4-16 in Mr Pedley's PoE). NR has agreed

to use best endeavours to secure a number of alternative parking spaces nearby for use by the Retail Park during periods when part of the car park is needed for the works.

- 7.47 The additional work area will be needed for the proposed Blockade 1, in April 2024, for approximately 15 days and for Blockade 2, in April 2025, for approximately 10 days. During both Blockades a crane will need to oversail the Domino's and Cubico units for 2 to 3 days on each occasion. It will be necessary that the businesses be closed during those periods for safety reasons (figures 4-17 and 4-18 in Mr Pedley's PoE).
- 7.48 Between the two Blockades the refurbishment of the Fitzwilliam Street span will take place. This will require the temporary closure of the road and the existing egress from the retail park via Green Street. During this period the alternative access and egress from St John's Road will be in place for tenants and customers to use as shown at Appendix 2 to Mr Foulkes' PoE.
- 7.49 The objectors will have access to the compensation provisions included in the Order in respect of any loss or disturbance to the businesses or adverse impact on the value of the property resulting from the works.

### **OBJ23 HD1 Developments Limited**

- 7.50 Although a PoE was submitted, HD1 did not attend the Inquiry to present evidence because negotiations were progressing well. NR has offered commitments which seek, as far as reasonably practicable, to address the concerns raised without causing prejudice to the time and economic delivery of the Scheme and its subsequent operation.
- 7.51 NR's response to the objection is provided in the evidence of Messrs Thomas, Pedley, Vernon, Rivero and Billingsley and that presented by Ms Rees-Gill. The main points of that response are summarised below.
- 7.52 HD1's land is required primarily during the construction of the Scheme as the location for the main construction compound to support the management of the construction works at Huddersfield Station and Huddersfield Viaduct. In his PoE, Mr Pedley provides a comprehensive justification for the need for NR to occupy that land for this purpose, including the need for road to rail access. He also outlines the assessment of the alternatives that were considered.
- 7.53 Section 4.5 of Mr Pedley's PoE provides a detailed explanation of the expected phasing of the works to the station which have been divided into 5 phases running from January 2023 to December 2025. These phases have been carefully planned to keep to a minimum the periods when a full blockade of rail services through the station will be required and, more generally, to minimise disruption to rail services and passengers. Mr Pedley explained that, due to the volume of work that needs to be

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undertaken, NR will require the full area of HD1's temporary car park for the duration of all five phases.

- 7.54 Alternative parking for people who use this temporary parking is available within a short distance of the station.<sup>94</sup> HD1 will be able to make an application for compensation in respect of any loss of income or other loss or disturbance resulting from the works. Pedestrian and emergency access to St George's warehouse will be maintained via New North Parade throughout the construction works and refuse collection from the warehouse will be provided for.
- 7.55 NR also requires a permanent right of access over and restrictive covenants in respect of the HD1 land to secure access to the railway for operational purposes and to maintain the safe operation of the electrified railway following the installation of the OLE. Again, insofar as the acquisition of these rights results in a loss to HD1 as landowner, it will be able to seek compensation for that loss.
- 7.56 HD1, and Mr Bottomley in his PoE, argue that the works to Huddersfield Station could prejudice the redevelopment of St George's Warehouse. NR rejects that contention. Mr Bottomley states that he has been advised that the planning permissions granted for the conversion and re-use of the warehouse, remain extant but this does not appear to be the case. Mr Rivero gave evidence that he has searched the planning files held by KC and can find no evidence to show that the pre-commencement conditions attached to those permissions have been discharged. In the absence of any evidence to the contrary, the reasonable inference is that the permissions have now expired and that there is no extant planning permission for the conversion and re-use of the warehouse. As also shown in Mr Rivero's evidence, HD1's previous threat to mount a legal challenge to the adoption of KC's Huddersfield Blueprint document as an SPD suggests a disconnect between KC and HD1 as to the building's planning potential.
- 7.57 In any event there is no evidence that NR's proposals would render the planning permission incapable of being implemented. In particular, the works required to the wagon lift at the warehouse are limited to protective works for earthing purposes because of its close proximity to the new OLE running through the station. As confirmed in response to the objections by HU/HCS and KCC, the Scheme safeguards the future provision of an access to the station from the western side, including the potential extension of the subway and new footbridge into the HD1 land as part of any future development of that site.
- 7.58 In essence, HD1 own a listed building as a development opportunity which has yet to be realised after 15 year. There is no evidence from HD1 to

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<sup>94</sup> See paragraphs 4.7.2 and 4.7.3 of Mr Foulkes' PoE.

show that there is a realistic prospect of any proposals for the building being brought forward in the short to medium term. Far from being a brake on its regeneration, it is more credible to see the Scheme as a likely catalyst for such development. For these reasons, NR is confident that the Scheme works and permanent acquisition of rights would not cause prejudice to the future regeneration of the St George's Warehouse and are unlikely to cause any delay in securing that regeneration. However, if any loss can be demonstrated HD1 would be able to seek compensation under the provisions set out within the draft Order.

- 7.59 Mr Bottomley's concerns about the scope of the LBC application for the works to Huddersfield Station are not shared by HE and KC. They are satisfied with NR's assessment of the station's significance and of the effect of the proposals on that significance. His evidence, in respect of the effect of those works on the setting of St George's Warehouse, has been responded to by Ms Rees-Gill in her rebuttal PoE. She concludes (paragraphs 2.1.6) that the works including the new roof canopies will have a minor beneficial effect on the setting of the warehouse by opening up views between the former goods yard and the station. In doing so, they will enhance the legibility of the historic relationship and improve the legibility of the asset's significance as part of the railway and industrial heritage. This view is shared by KC (paragraphs 2.22 of the rebuttal) and by HE who welcome the design approach and state in their representation [REP02] that:

*"The new canopies take the opportunities to open up new views through to the warehouse and reconnect people's perceptions of this side of the station"*

- 7.60 This is ultimately a matter of judgement but NR submits that this view is shared by Ms Rees-Gill, KC's heritage advisors and HE. However, as Mr Bottomley recognises in his evidence, even if the SoS should conclude that there would be some adverse effect to the setting of the warehouse, this should be categorised as less than substantial harm and needs to be balanced against the public benefits of the Scheme. It is frankly impossible to conclude other than that those very significant benefits to the rail network and its passengers outweigh the less than substantial harm to a building that was constructed as part of the expansion of the railway in the late 1800s.

## **OBJ27 Charities Property Fund**

- 7.61 NR has provided the objector with further explanation of the requirement for the land and rights sought in the draft Order. It has confirmed that these are required to deliver works 9A (a new section of railway partly on a viaduct) and 10 (the realignment of the B6118 Colne Bridge Road) along with a number of plots required for temporary access to facilitate those works.

- 7.62 NR has offered a unilateral undertaking to CPF with commitments which seek to address the issues raised in their objection. The commitments letter and draft undertaking are included at Appendix 2 to INQ-03A. These are designed to help manage the interface between the authorised works and the operations of the Company's tenant who occupies the property. The obligations in the proposed undertaking are:
- (a) NR shall appoint a Liaison Officer for the duration of the works to liaise with the objector and their tenant.
  - (b) NR shall give the objector and tenant at least 6 months' notice of the commencement of any of the authorised works on the land and provide regular updates on the construction programme through the Liaison Officer.
  - (c) In undertaking the works, NR shall, so far as reasonably practicable, ensure that access to the property is maintained during the tenant's operational hours and during any other such time that does not interfere with the works. NR will use all reasonable endeavours to ensure that emergency access to the property is maintained.
  - (d) Subject to the completion of the undertaking, the withdrawal of the objection and the submission of copies of relevant invoices, NR undertakes to meet the reasonable fees incurred by the objector in negotiating the undertaking.
- 7.63 NR considers that the undertaking offered to the objector will effectively mitigate the issues raised in the objection. However, any losses incurred by the objector or their tenant as a result of the implementation of the scheme will be subject to the compensation provisions set out in the Order.

### **OBJ30 DG Asset Enterprises Limited**

- 7.64 NR has responded to DGA to clarify its requirements for temporary occupation of part of their site as a temporary working compound and associated access for the construction works as shown in the figure included in Appendix 1 to Mr Billingsley's PoE .
- 7.65 NR has also issued a unilateral undertaking which seeks to mitigate the issues raised in the objection. The obligations in that undertaking are as follows:
- (a) While in temporary possession of the area hatched orange on the plan attached to the undertaking NR shall not prevent emergency access to the property.
  - (b) NR shall employ traffic marshals and banksmen, as required and agreed in advance, when exercising the powers in the Order so as to maintain safe access for vehicles and pedestrians to both the electricity substation and the car park.

- (c) NR shall ensure that any debris on the access road or yard is removed as soon as reasonably practicable.
- (d) NR shall fence the area hatched blue on the plan (the compound area) and take access to this compound via the land edged red and hatched blue (so as to minimise disruption to the tenant's use of and operations on the site).
- (e) NR shall not park any vehicles on the area hatched purple or green, shall not leave vehicles in the compound overnight, shall restrict the movement of large vehicles to designated parts of the site and shall seek to ensure that the movement of vehicles does not impact on the tenant's vehicular movements.
- (f) Vegetation clearance will be kept to a minimum and, where vegetation is removed, NR will install temporary matting to ensure a safe and level access route.
- (g) NR shall make good any damage caused to any land or property which is temporarily occupied for the purpose of the authorised works and shall not reduce the number of parking spaces at the property.
- (h) Before commencement of the works NR shall engage with the company to understand its operations and shall, as far as is reasonably practicable, take such information into account in the works programme.
- (i) Subject to the withdrawal of the objection and submission of copies of relevant invoices, NR undertakes to reimburse DGA's reasonable professional surveyor's costs of negotiating the undertaking.

7.66 NR considers that these obligations provide adequate mitigation for the issues raised in the objection. However, compensation for any losses incurred as a result of the works can be sought under the provisions included within the Order.

#### **OBJ34 Taurus Investments Limited and OBJ37 Mamas and Papas**

7.67 In section 7.6 of his PoE, Mr Pedley explains how the construction works in relation to the Colne Bridge Road Overbridge will be managed in a way that minimises the impact on the Mamas and Papas site access and car park such that the tenant will continue to enjoy the use of the property during the construction works. His evidence also shows how, once the new road has been constructed, the western parking spaces in the staff parking area will be reinstated and the land used for the temporary compound will be returned to the tenant, so allowing two way traffic to use this access road.

7.68 NR has issued unilateral undertakings to both Taurus and Mamas and Papas which set out the obligations that NR is willing to commit to mitigate the effects of the works on the site operations. In summary these include:

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- (a) The provision of 6 months' notice before commencement of the works.
  - (b) To undertake the construction of temporary replacement parking spaces in accordance with a previously agreed plan with as many spaces as can reasonably be achieved.
  - (c) To produce a photographic schedule of the condition of the site before and after the works.
  - (d) Not to prevent access and egress for deliveries to the unit save where access needs to be controlled by traffic signals or marshals or where temporary possession of part of the service yard is needed for the works.
  - (e) To engage with Mamas and Papas before works commence to understand their site operations and, as far as is reasonably practicable, to take account of such information in the programming of the works.
  - (f) To give prior notice of the access and egress requirements for the works to the electricity pylon, to confirm the laydown and working site area for these works, and to engage with Mamas and Papas and Taurus so as to minimise any disruption during the works to the pylon.
  - (g) To reimburse the objectors' reasonable surveyor's fees subject to the usual conditions.

7.69 NR is confident that the proposed method of working and obligations offered provide adequate mitigation of the potential adverse effects of the works on the site. Although it had not withdrawn its objection by the close of the Inquiry, Taurus opted not to present any evidence to the Inquiry in view of the progress that had been made in the negotiations. Mamas and Papas have not submitted any further information in support of their objection.

7.70 If the owner or occupier of the property suffers any financial loss as a result of the temporary possession or permanent land take proposed within the Order they will be able to make a claim for compensation in accordance with the provisions within the draft Order.

### **OBJ36 Dewsbury Riverside Limited**

7.71 As set out in section 8.3 of Mr Rivero's PoE and section 5.3 of the Calder Road Design Refinement Report [INQ-24], the works at Ravensthorpe will not preclude either the implementation of the 120 house development which has the benefit of OPP or the wider housing allocation made under Policy HS61 of the LPADD.



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- 7.72 Section 5.3 of INQ-24 explains that the design refinement for the Calder Road scheme maintains access to the DRL site to the south of the realigned Ravensthorpe Road. If required, access to the 120 unit OPP land could be provided from a fourth arm to the new roundabout. This can be achieved within the Limits of Deviation of the Scheme. That new roundabout would also have capacity to accommodate the wider development proposed within the housing allocation site, albeit not as a single point of access to that development.
- 7.73 As set out in document INQ-3A, NR wrote to DRL on 5 July 2021 confirming that the Scheme would not have an adverse impact on the delivery of the 120 unit development and would not prevent the future development of the wider site allocation. By means of an email dated 8 October 2021, NR forwarded to the objectors a copy of the Dewsbury Riverside Highways Access Note. This sets out detailed proposals for how access to the DRL site could be safeguarded in the proposals as envisaged when the TWA application was submitted. On 25 November 2021 DRL was sent a copy of the Design Refinement Note [INQ-24] with a covering email. This explained the proposed refinements and confirmed that access to the DRL site can be provided via a fourth arm to the new roundabout. This correspondence is included at Appendix 5 to INQ-03A.
- 7.74 As set out in Mr Vernon's letter to DRL of 5 July 2021, NR considers that the Scheme will benefit the proposed residential development by moving Ravensthorpe Station closer to the DRL and by enabling improved and more reliable train services to Manchester, Huddersfield and Leeds. The rationalisation of existing utility services proposed as part of the Scheme, will increase the developable area of the housing allocation site. By constructing the roundabout with a new fourth arm NR would also be helping to deliver part of the access to the housing development. That letter also addresses the other concerns raised in DRL's objection.
- 7.75 No response was received from DRL to NR's email of 25 November prior to the close of the Inquiry. NR is confident that the refined proposals would not prejudice the delivery of the 120 OPP scheme or the wider development of the site allocated in the LPADD. NR notes that, although KC initially raised concerns about the impact of the Scheme on the delivery of the development at Dewsbury Riverside, those concerns have been addressed in the subsequent discussions with the Council. KC's objection to the draft Order has been withdrawn.

#### **OBJ44 Mrs Newton**

- 7.76 The closure of the private access, under Occupation Underbridge, to Mrs Newton's property is necessary to enable the infilling of the bridge for the reasons (set out in section 3 of this report) given for the LBC application. An alternative access will be provided and made available for her use before the existing access is stopped up. This has been confirmed to Mrs

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Newton in a letter dated 25 November 2021 included at Appendix 6 to INQ-03A.

- 7.77 This letter followed discussions with Mrs Newton in 2019, 2020 and 2021 and confirms the proposed arrangements. Agreement has been reached with Westex Carpets for NR to acquire a strip of land along the boundary of their premises at Calder Bank Road to provide the alternative access to Mrs Newton's property. The plan attached to the 25 November letter indicates how that new access would be constructed so that it would be separate to and would not interfere with the access to the Westex Carpets site. Mrs Newton was shown this plan at a meeting on 4 June 2021. She has given verbal agreement that this would be an acceptable alternative for the access to be lost as a result of the Scheme. That agreement had not been confirmed in writing at the close of the Inquiry.
- 7.78 The other points raised by Mrs Newton about the need for and benefits of the Scheme have been fully addressed in the evidence presented by Mr Vernon and other witnesses who gave evidence on behalf of NR.

#### **OBJ46 Ian Forbes**

- 7.79 Mr Forbes's objection focuses on the potential loss of footpaths and temporary disruption to the users of footpaths and PROW during the works. No permanent closure of any footpath is proposed but the Scheme will result in the permanent diversion of the existing paths over the footbridge at Heaton Lodge and at Wheatley's Colliery Overbridge and of bridleway DEW3/10 along the south side of the railway at Ravensthorpe Road. These permanent effects are summarised in Table 14-23 of ES Volume 2i [NR16A]. Paragraph 14.5.14 of that document concludes that, while some of these diversions could marginally increase journey times, there will be some benefits in terms of increased footway widths and improved conditions on those routes at certain locations. The overall effect of these diversions is assessed as a permanent negligible effect of neutral to slight significance in EIA terms.
- 7.80 The position with regard to the temporary changes to PROW during the construction works is set out in Table 14.10 of ES Volume 2i and is summarised in section 3.3 of Mr Foulkes' evidence. The impacts on users of the PROW affected would be temporary and most would be of relatively short duration. Mr Foulkes identified the greatest likely impact as being that resulting from the temporary diversion of an existing route via Red Doles Road where there would be an increase in pedestrian journey time of about 30 minutes. This would have a significant adverse impact on users but this would only be a temporary effect.
- 7.81 Mr Rivero's evidence confirms that the land to be given in exchange for the POS that would be acquired for the Scheme would be equivalent in size and amenity and would be equally accessible to the communities that it is intended to serve.

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## 8. INSPECTOR'S CONCLUSIONS

*Taking account of the evidence in this case, including the submissions and representations on which I have reported above, I have reached the following conclusions. These are structured to reflect the list of issues set out in the SoM on which the Secretaries of State particularly wish to be informed. I have considered the case made out for the TWA Order and the deemed planning permission together as these raise much the same issues. Paragraph numbers contained in square brackets are to earlier paragraphs in the report.*

### **In relation to the applications for the TWA Order and deemed planning permission**

#### **1. The aims and objectives of, and the need for, the proposed Huddersfield to Westtown (Dewsbury) improvements scheme ("the Scheme").**

- 8.1 There is clear and unchallenged evidence that the two track layout along most of the Scheme route acts as a very significant constraint on the efficiency and resilience of this section of the NTPR. This has resulted in considerable levels of congestion and delays which have had an adverse impact on the performance of passenger services using this section of the route for many years. [3.4] The layout of the Scheme route results in regular conflicts between train movements, thereby limiting opportunities for the effective management of services when a train fails. It restricts the speed of the faster services to an average of 60mph compared to the 78mph that should be achieved. [3.6-3.10] As a result of these constraints, the Scheme route acts as the major bottleneck along the wider NTPR route. The delays and congestion in this section of railway are a major contributor to the generally poor performance of the passenger services using the NTPR compared to other sections of the local and national network. [3.11, 4.15]
- 8.2 The Scheme route had achieved its practical capacity, in terms of the number and frequency of services that can be run, before the onset of the coronavirus pandemic. This lack of capacity can only be addressed by means of a major upgrading of the route. The introduction of four track operation along most of the Scheme route and the segregation of the fast and slow lines are essential improvements if the current constraints are to be overcome. The upgrading of the route, to enable fast trains to run at the conventional 100mph on clear sections, is also necessary to achieve an improvement in performance and reduce journey times between Manchester, Leeds and York in accordance with the Scheme objectives agreed with the DfT. [3.10-3.12]
- 8.3 The evidence clearly demonstrates that that NTPR does not currently meet the needs of passenger or of the TOCs and FOCs who use the route and is unable to fulfil its role as a key transport artery to serve the major towns and other settlements of Greater Manchester, Lancashire, Yorkshire and

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the North East. [3.3,3.12] The Scheme forms a critical part of the wider TRU programme. This is evidenced by the fact that some 50% of the TRU funding is expected to be invested in the upgrading of Scheme route even though it represents less than 10% of the total length of railway within the wider TRU programme. [3.11,3.16,3.17]

- 8.4 Passenger numbers reduced on this route, as on other sections of the railway network, during the pandemic but the most up-to-date forecasts predict that passenger demand will return to pre-pandemic levels under the medium demand scenario and will continue to grow thereafter. It is highly likely that passenger use of the NTPR will have surpassed pre-pandemic levels before the TRU programme, including the Order Scheme, is completed and operational in 2028. [3.13]
- 8.5 The concerns raised by Mrs Newton (OBJ44) about the need for the Scheme in this context [5.66] are unsubstantiated. The evidence points to a return to previous passenger numbers and a likelihood of continued growth thereafter. In the absence of the improvement works included within the draft Order, passengers using the NTPR would continue to experience serious congestion and delays and future growth in passenger numbers would not be possible. I agree with NR that the NTPR is in urgent need of improvement and that the Order Scheme is critical to securing that improvement. [3.3, 3.17]. I am satisfied that NR has set out a clear justification for all of the components of the Scheme and the works required to deliver the proposed improvements. [3.20-3.37]
- 8.6 The Scheme objectives have been clearly set out and the evidence presented to the Inquiry demonstrates how the works will achieve these. The resulting public benefits, in terms of improving journey times, enabling additional services to be run, reducing conflicts and improving service performance and the resilience of the line, upgrading of passenger facilities at the four stations, and enabling trains to use electrical power along this section of the NTPR, are substantial and have not been seriously questioned by any of those objecting to the draft Order. [3.14-3.17]
- 8.7 The letters of support from TfN [4.9-4.10], WYCA [4.14-4.18] and KC [4.21] confirm the importance of the NTPR as a major economic artery and agree that it is not currently well placed to fulfil its role as a commuter, business and leisure route. TfN and WYCA contend that the upgrading of the NTPR and the Scheme route is critical to supporting the government's levelling up agenda and enabling the northern conurbations to perform as a coherent and productive economic entity. These parties agree that, if the improvements proposed within the draft Order are not delivered as a priority, the NTPR will continue to operate as a constraint to, rather than an enabler of, building back better across the northern economy. These

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representations strongly support the economic and business case presented by NR. [3.18-3.19]

- 8.8 WYCA and KC also express their support for the Scheme in terms of the improvements that will be made to passenger facilities at the four stations and the contribution that electrification of the Scheme route will make to the decarbonisation of the network. As noted in Mr Vernon's evidence, the electrification of the Scheme route will make a material contribution to the delivery of NR's own Decarbonisation Strategy and the climate change agenda. [3.35-3.36].
- 8.9 No challenge was advanced at the Inquiry to the core transport, planning, engineering and operational case for the Scheme. It can be concluded that there is widespread support, even from those who objected to the acquisition of their land or on other specific grounds, as to the need for and urgency of the proposed improvements. [3.37]. I agree that the delivery of the TRU and of the Scheme as a critical component of that wider project, has been given increased importance and urgency by the publication, in November 2021, of the IRP. This states that the TRU is one of the core pipeline commitments in the IRP and will form the first phase of NPR. [3.19]

## **2. The main alternative options considered by NR and the reasons for choosing the preferred option set out in the Order**

- 8.10 The clear purpose and remit of the TRU and Scheme is to address the existing significant performance issues on the NTPR, in order to increase the capacity and resilience of the route and improve journey times. It is undoubtedly the case that these objectives could not be achieved by carrying out other strategic railway or highway schemes. No such scheme would be capable of securing the same public benefits. No party has suggested that there is a realistic alternative. [3.40]
- 8.11 The development and refinement of the Scheme design through the GRIP process has followed a structured and coherent course. An appropriate level of optioneering has been carried out in respect of all of the key components of the Scheme. NR's evidence has demonstrated the detailed assessment of alternative options carried out to achieve the operational requirements of the Scheme whilst seeking to minimise the potential adverse environmental impacts and impacts on owners and occupiers of land and property affected by the proposals. [3.41-3.48]
- 8.12 Mr Thomas's evidence clearly shows that the relevant design and safety parameters have been carefully scrutinised as part of the optioneering process and that there is no further room to squeeze those design and safety standards [3.43-3.44, 3.91]. Mr Pedley's evidence demonstrates the degree of thought and analysis given to how the construction works can best be implemented in a safe and cost effective manner whilst also minimising disruption to railway services, users of the public highway and

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PROW, and nearby businesses and other occupiers [3.45]. In combination with that presented by Ms Rees-Gill in respect of the optioneering undertaken in relation to works likely to affect heritage assets, this provides robust and convincing evidence that all reasonably practicable, alternative design and engineering options have been assessed and ruled out for good reason before the final proposals which now form part of the Order Scheme were adopted. [3.41-3.48]

### **3. The likely impact of the exercise of the powers in the proposed TWA Order on local businesses, tenants and occupiers.**

- 8.13 The historic four track formation of the Scheme route provides a major benefit in terms of reducing the amount of third party land needed for the implementation of the works and subsequent operation of the improved railway. However, no scheme of this type and scale is likely to be capable of being delivered without requiring additional land or rights on both a permanent and temporary basis. [3.50]
- 8.14 The design and optioneering work undertaken prior to the submission of the application sought to limit the impacts on businesses, tenants and occupiers of land and property within and adjoining the Scheme boundary. Although NR is confident that the Scheme can be delivered within the Limits of Deviation it has also been clear that much more detailed design work would need to be undertaken following the making of the Order. As is generally the case with schemes of this type, further design work is likely to provide opportunities to further tighten or refine the detailed design so as to minimise the impacts on individual businesses and occupiers. [3.51]
- 8.15 NR has repeatedly stated its willingness to negotiate with landowners and businesses affected by the Scheme, to better understand their operational needs and consider how the proposals might be refined in order to reduce the physical extent of any adverse effects of the construction works and/or the duration over which those effects might be experienced. The benefits of this approach have been most clearly demonstrated in the further work done to refine the design of the Calder Road realignment and subsequent agreement with Hargreaves and its associated companies (OBJ12-22 and 29) which enabled them to withdraw their objections. Similar negotiations have led to the withdrawal of other objections [3.51] such that the number of remaining objections had reduced to 19 at the close of the Inquiry compared to the 34 that were in place when the Inquiry opened [1.14].
- 8.16 As detailed in paragraph 1.14 of my report, a number of those remaining objectors are understood to have agreed heads of terms that might enable them to withdraw their objection once those terms have been formalised in a legal agreement. I have treated these as remaining objectors. I have

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considered the concerns raised by all of the remaining business owner and occupier objectors and set out my conclusions as follows.

***OBJ01 Lawton Yarns and P41 Limited***

- 8.17 I saw on my site visit that the electricity pylon occupies a very small part of the Lawton Yarns site and is largely separated from both the access and servicing area by existing buildings. Although there would be a requirement for temporary access and the parking of a vehicle(s) to dismantle and remove the pylon and cables, this is expected to be of very short duration (approximately 3 weeks). With advance notice of the works, and the other safeguards proposed in the unilateral undertaking offered by NR, there would be minimum scope for significant disruption to the landowner or occupier whilst those works are carried out. There would be no interference to the occupier's access to the river for water abstraction [7.28-7.32].
- 8.18 In the absence of any evidence from the objector to substantiate their concerns, I see no reason why the relocation of the overhead cables should have any adverse effect either on the existing use of the site or its potential for further development or improvement [5.24]. However, if such a loss could be demonstrated, the objectors would be able to seek compensation in accordance with the compensation code.

***OBJ14 Yorkshire Children's Centre***

- 8.19 I understand that an engrossed agreement between YCC and NR was issued prior to the close of the Inquiry and that this may resolve all of YCC's outstanding concerns [7.42]. However, I find little substance in the concerns raised by the objector.
- 8.20 Due to the nature and scale of the works proposed at Huddersfield Station it is clear that a major construction compound is needed in close proximity to the station and that the former goods yard is the most appropriate location for this in terms of its size, accessibility and ability to provide for road to rail access in a straightforward manner [3.45]. This compound is likely to be an active and busy facility with vehicles and goods movements coming into and out of the site over the construction period. There is also an obvious need for this to be a secure site and for access to be controlled in order to ensure the health and safety of construction workers and the general public.
- 8.21 In those circumstances, NR's commitment to maintain emergency access to Brian Jackson House and facilitate refuse collection and deliveries on a pre-arranged basis represents a reasonable and proportionate response to the concerns raised. The Scheme will not affect the principal access to Brian Jackson House and, with effective liaison and mutual co-operation

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between the parties, I see no reason why any significant disruption should be caused to YCC's deliveries or refuse collection. [7.43]

- 8.22 YCC will be deprived of the use of the parking area that they have apparently enjoyed immediately adjacent to the building. The availability of adequate public car parking in the surrounding area will mean that this would not cause significant inconvenience. On the evidence presented, YCC's claims to a right of access to and a right of use of that parking area are, in any event, questionable. [7.43]
- 8.23 The boundary of the improvement works is determined by the new track and platform layout at Huddersfield Station, with this alignment having been arrived at through a rigorous optioneering process. This will prevent vehicular access down the side of Brian Jackson House. However, the effect of the works on the building itself are limited to the need for NR to have some control on any future alterations to make sure that these do not introduce new safety risks given the close proximity of the OLE. [7.43]
- 8.24 In my judgement, the other effects of the Scheme on the use and enjoyment of Brian Jackson House are likely to be minor in their extent and would not cause material harm to the owner or occupiers of the building. However, if any damage or loss is caused by the works, the objector would have recourse to the compensation provisions within the Order.

***OBJ15 Kinder Properties Limited; OBJ16 DP Realty Limited & OBJ45 R&D Yorkshire Limited***

- 8.25 I understand that an engrossed agreement between these objectors and NR was issued prior to the close of the Inquiry and that this may resolve all of the outstanding concerns [7.44]. Again, however, I find little substance in the concerns raised by the objector.
- 8.26 In light of the existing condition of parts of Huddersfield Viaduct there is a clear need for some sections of the bridge deck to be removed and replaced. This could only be achieved by the use of heavy lifting equipment (cranes) sited in close proximity to the viaduct and in a position where they can lift large and heavy loads onto or off of vehicles capable of carrying such abnormal loads. The temporary use of a small part of the car park to the Castlegate Retail Park, as well as the temporary closure of sections of the nearby roads, has been shown to be both necessary and appropriate to achieve the requisite works in a safe and efficient way and in order to limit the duration of the necessary blockades on rail services. [7.46]
- 8.27 NR's evidence shows the steps that have been taken to limit both the physical extent of the land to be occupied and the duration over which such occupation will be required. The overall effect would be the temporary loss of some parking spaces for approximately 15 days in 2024 and 10 days in 2025. Alternative egress from the retail park would be



available for the duration of the works. NR has also given a commitment to use its best endeavours to secure additional, off-site parking spaces for use by the retail park tenants when the spaces at the Castlegate Retail Park car park are unavailable. [7.46-7.48] I consider that the proposed works would cause minimum disruption to the occupiers of the retail park and no material harm to Kinder Properties' interests as owner of the land.

- 8.28 For safety reasons, when heavy sections of the bridge deck are being lifted out of or into the viaduct, it will be necessary for a small number of the retail units to be closed for a short and temporary period. This is demonstrably in the interests of public safety. Any loss of income experienced during these periods of non-trading would be recoverable through the compensation process. [7.47, 7.49]

### ***OBJ23 HD1 Limited***

- 8.29 As set out in paragraph 8.20 above, I find that the main compound proposed on HD1's land is essential for the implementation of the Scheme and that this land represents the best location for that compound [7.52-7.53]. The removal of the temporary car park that the land is currently used for will cause some inconvenience to car users that regularly park here. However, there is adequate capacity in other nearby car parks to accommodate this displaced demand [7.53-7.54]. Any loss of income resulting from the temporary removal of that parking is a matter for a future compensation claim and does not, in my judgement, represent a legitimate objection to the Scheme [7.54].
- 8.30 HD1's concerns that the Scheme might prejudice or delay the implementation of a scheme for the restoration and re-use of St George's Warehouse lack firm foundation. On the balance of the evidence presented, it seems likely that the planning permissions granted in 2006 have now expired and that no permission for any substantive works to the warehouse remains extant [7.56]. It is also questionable, in my view, whether a scheme deemed viable and capable of delivery in 2006/2007 would still be considered viable in today's economic climate. Even if that is not the case, I accept NR's argument that HD1 has not presented any evidence to substantiate its assertion that the development proposals envisaged in 2006 would be rendered incapable of delivery as a result of the works proposed in the Scheme [7.57].
- 8.31 Any proposal for the future use of the warehouse would need to have regard to its close proximity to a main railway station and the effect of this in terms of the outlook from any new accommodation and the noise and activity generated by the station operations [5.43]. The Scheme would bring the nearest track and the new platform canopies slightly closer to the boundary with the HD1 land. This would not, in my view, make any material difference in terms of those potential effects on any new occupiers of the warehouse. HD1 has provided no evidence that its previous proposals for stairs, lift and viewing platform as part of the

warehouse development would be prejudiced by the Scheme [5.44]. The Scheme would safeguard the potential for a future access to the station from the north western side including an extended subway or footbridge link to the HD1 land [7.8, 7.57].

- 8.32 Proposals for the restoration and re-use of St George's Warehouse have been stalled for many years. There is no clear evidence that such proposals are likely to be brought forward in the short to medium term. The apparent absence of an extant planning permission and of a disconnect between HD1 and KC as to how the site should be developed renders such a prospect more unlikely. There is, accordingly, a very limited risk that the temporary occupation of the site for a period of 3 years would cause delay to the regeneration of that asset. The improvement of the Station facilities and the benefits of the Scheme, in terms of additional and more reliable trains services from the Station, could also have a minor beneficial effect in supporting the marketing of any new scheme for the Warehouse. [7.56-7.58]
- 8.33 Accordingly, I conclude that the Scheme would have minimal impact on HD1's land interests or on the development opportunity presented by the listed warehouse and associated land.

#### ***OBJ27 Charities Property Fund***

- 8.34 The acquisition of the land and rights in which CPF has an interest is needed to facilitate the works to Colne Bridge Road and the construction of a new section of railway in this section of the route [7.61]. Although there would be some disruption to the tenant of the affected premises this would be of a temporary nature. In addition, NR has given a commitment to ensure, as far as reasonably practicable, that access to the property is maintained during normal operational hours and at any time to the extent that this does not interfere with the works. With an appropriate level of communication between NR's Liaison Officer and the tenant any disruption could be kept to a minimum. [7.62] I find that there would be no long term adverse effect on the use and operation of the site and that any losses that might be incurred as a result of the works could be subject to a claim for compensation if this can be justified [7.63].

#### ***OBJ30 DG Asset Management***

- 8.35 Access to and use of part of the DGA site is required only on a temporary basis to facilitate the Scheme construction. The unilateral undertaking offered by NR includes appropriate obligations for the fencing of the compound area and other measures to minimise the impact on the use of the site by DGA's tenants and on their access and servicing operations.[7.64-7.66] With these measures in place, I see no reason

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why there should be a significant degree of disruption to the occupier or their business.

***OBJ34 Taurus Investments Limited & OBJ37 Mamas and Papas***

- 8.36 The works require the permanent acquisition of a small area of land within the staff parking area for the earth embankment to support the realigned Colne Bridge Road. The car park would be reinstated with a revised layout on completion of the works. All other effects of the works would be temporary, with temporary replacement parking being provided (albeit not with the same number of spaces that are currently available). Servicing access would be maintained except where NR's use of this area is necessary for the safe implementation of the works. [7.67-7.69] With advance notice from NR of the commencement of the works, and an appropriate level of communication with the occupier of the premises throughout the works, there would be limited risk of any significant disruption to the business operations on the site.

***OBJ36 Dewsbury Riverside Limited***

- 8.37 The Scheme plans demonstrate the need for encroachment on the DRL land in order to deliver the major works at Ravensthorpe that form a key part of the Scheme. It has been shown that a suitable access, both for the 120 unit housing scheme with the benefit of OPP and for additional residential development on the site, can be provided from the proposed new roundabout. It has also been shown that the proposals would not lead to a material reduction in the developable area of the housing allocation at the Dewsbury Riverside site. [7.71-7.73] Although DRL has maintained its objection, the concerns raised by KC, which has a strong vested interest in the delivery of the DRL site in order to meet the Council's strategic housing requirement, have been resolved. KC's objection has been withdrawn [7.75].
- 8.38 I am, accordingly, satisfied that the Scheme would not have a significant adverse effect either on the capacity of the allocated site or on the ability of DRL or any other landowner to bring their land forward in accordance with the allocation set out in the Council's development plan. I also accept NR's contention that the relocation of Ravensthorpe Station, closer to the DRL site, and the expected increase in the number and frequency of train services using the NTPR, following the completion of the Scheme, is likely to bring some benefit in terms of the accessibility of the site and its attractiveness to future residents [7.74].

***OBJ42 Veolia***

- 8.39 Temporary access and occupation of part of Veolia's site is required for the diversion of a gas main and to undertake the diversion of Calder Road and other railway works as part of the scheme. The Scheme would result in

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changes to the permanent access to the site but the new access would meet the agreed requirements in terms of the access visibility splays to the east and west [7.11].

- 8.40 There would be a degree of disruption from the temporary occupation of part of the site and some inconvenience to drivers of Veolia's vehicles due to the need, during that temporary period, to park on the opposite side of the road. The maintenance garage, driver mess facilities and administrative functions of the site would not be affected by the Scheme and the only difference would be the need for the HGVs to be parked on an area of land directly opposite the garage. [7.12-7.15]
- 8.41 There is no condition on the existing Operator's Licence (which is devoid of any specific terms and conditions in respect of the Calder Garage other than to specify the maximum number of vehicles to be operated from the site) that states that such temporary arrangements would require the issue of a new and separate licence [7.16]. Note No. 6 to the Licence states that the licence holder cannot change an operating centre without having been granted authority to do so.
- 8.42 On my reading, that note suggests that the written authority of the Traffic Commissioners' Office, rather than a new licence, may be required for the temporary use of other land for the parking of the HGVs. Veolia has not set out any clear reason why that authority should not be granted in the circumstances that create the need for the temporary parking provision. Even if a new licence was to be necessary, I see no good reason why the Traffic Commissioner's Office would not be willing to grant that licence or, given that this would only be for a temporary period, why any new conditions should be imposed on that licence. I, therefore, conclude that Veolia's concerns in this regard are not supported by any hard evidence.
- 8.43 The temporary road closures would cause some disruption to Veolia's operations as a result of the need to use alternative routes during the periods when they are in place. If such diversions were to result in increased costs to the company reimbursement could be sought as part of any compensation claim [7.17]. I note Veolia's concerns about possible reputational damage if their vehicles need to use residential roads when Calder Bridge Road is closed. I do not consider that this is likely to be a significant risk [5.8]. In total, the closures would extend over a few months [7.12] and it seems likely that those living in the area will be fully aware when these are in place. Although residents may notice additional HGVs using residential roads during these periods they are likely to know the reasons for that change in traffic patterns. Hence, they might be expected to raise any concerns with NR and/or their local councillor rather than with Veolia.
- 8.44 I conclude that, although there would be some inconvenience and temporary disruption to Veolia's operations, this would not be such as to

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have a significant adverse effect on the business or on their ability to service their customers.

**OBJ44 Mrs Newton**

- 8.45 The need for infilling Occupation Underbridge to accommodate the realignment of the track in this section of the route has clearly been demonstrated. This infilling will, inevitably, result in the loss of the existing access to Mrs Newton's property [3.176-3.177, 7.76]. However, agreement has been reached to provide an alternative access [7.76]. My observations from my site inspection are that this alternative would not enjoy the same level of amenity as the existing access, given its location adjacent to a large industrial complex. It would, nevertheless, provide a private, direct and secure access to that property.
- 8.46 The loss of the existing access would lead to some inconvenience to Mrs Newton. However, as the alternative access would need to be in place before any works to the Occupation Underbridge commence, I find that the Scheme would not amount to a significant adverse effect in terms of her ability to access her property.

**Other businesses and wider effects**

- 8.47 All the other objections from business owners submitted to the draft Order have been withdrawn. No other issues of concern about the effect on local businesses have been raised. NR has advised that contact has been made with all of the property owners and occupiers affected by the proposed compulsory acquisition. NR has offered to deal with any questions that owners and occupiers may have and has invited those parties to negotiate terms for the land or rights required for the Scheme [3.99]. All such owners and occupiers would be entitled to compensation in the event that any material loss arises from the Scheme [3.92].
- 8.48 Some disturbance will be caused to local businesses as a result of the temporary closure of some roads. The effects of such closures and resultant diversions have been assessed within the TA and the Transport Chapter of the ES [3.55]. All of these effects would be of a temporary nature. Steps to minimise the adverse impact on local residents and businesses would be put in place as part of the CTMP. This would need to be prepared as part of the CoCP and agreed by KC as local planning and highway authority for each stage of development under Condition 5 of the proposed planning conditions. The side agreements between NR and KC set out commitments as to how works would be managed in order to minimise disruption to the key waste and recycling facilities. [3.56]. Whilst the Scheme works would lead to some local disruption to businesses and other road users, I am satisfied that the CoCP and CTMP would

provide an appropriate level of control so as to manage and minimise such adverse effects.

**4. The potential effects of the Scheme on cycling and walking and the normal and safe operation of Huddersfield Bus Station and on tenants and/or users of the Bus Station during the construction including the impacts on local bus services.**

- 8.49 The concerns raised by the WYCA regarding the potential effects on the operation of and planned improvements to Huddersfield Bus Station, and on bus services more generally as a result of the works, have been resolved. Measures have been agreed to minimise those effects. Side agreements between NR and WYCA (as the authority with responsibility for the operation of the Bus Station and local bus services) set out how the works that might affect the Bus Station, or which would require the temporary diversion of bus services, would be managed to minimise any adverse effects. [3.57] The formal withdrawal of its objection and request that it should now be registered as a Supporter of the Scheme, demonstrates that WYCA has no outstanding concerns about these matters [1.16, 3.57, 4.14-4.18]. No objections were submitted by any bus operators, tenants or users of the Bus Station.
- 8.50 The Scheme works are likely to have some adverse effects on walkers and cyclists as a result of the need for the temporary closure of sections of PROW. As set out in section 3.3 of Mr Foulkes' PoE a temporary diversion will be available in most cases although some of these will result in extended journey times. Most of the increased journey times would be relatively modest but could extend to up to 30 minutes for pedestrians using the diversion route along Red Doles Way and up to 2.5 miles additional distance for cyclists due to the temporary closure of Calder Road.
- 8.51 These impacts are likely to result in a considerable level of inconvenience to some users of the PROW affected but, in all cases, the effect would be temporary and over a relatively short period of time. These short-term impacts represent an acceptable level of disturbance to users given the scale and extent of the works.

**5. The potential effects of the Scheme on statutory undertakers, statutory utilities and other utility providers, and their ability to carry out their undertakings effectively, safely and in compliance with any statutory or contractual obligations and the protective provisions afforded to them.**

- 8.52 The specific provisions and safeguards set out in Schedules 18 and 19 of the draft Order are based on similar provisions in other TWA Orders made by the SoS. They are, therefore, well precedented in terms of providing adequate protection to the apparatus and operational interests of statutory undertakers and utility companies [3.60]. Agreement has been reached

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with the EA over its previous concerns about some of the protective provisions. NR has proposed amendments to the relevant provisions in the revised draft Order in Document INQ-10A [3.62].

- 8.53 Only two objections from utility providers remain. These both relate to Part 1 of Schedule 19. Neither objector appeared at the Inquiry to present any evidence in support of their objections although NPG (OBJ05) submitted a further letter dated 23 November 2021 [INQ-27]. In their objection NGN requested that NR should enter into a Private Asset Protection Deed in order to safeguard their assets in place of reliance upon the protective provisions in the Order [5.34].
- 8.54 NPG objects to the draft Order on the grounds that the Scheme may interfere with its ability to discharge its statutory undertaking. It has not provided any evidence to substantiate that concern. NPG say that they have assessed the protective provisions set out in Part 1 of Schedule 19 as being inadequate. NR have made reference to an alternative set of provisions having been proposed. However, NPG has submitted neither any explanation as to what its concerns about the draft provisions are nor any justification as to why these should be replaced. [7.40]
- 8.55 NR's understanding is that the main thrust of the complaint is that NPG thinks it unreasonable that NR should be able to invoke the terms of the existing wayleave agreements in order to require NPG to carry out the lifting and shifting of its apparatus where this is necessary to facilitate the Scheme works. Instead, NPG contends that the costs of such works should be indemnified by NR under modified protective provisions. [7.37]
- 8.56 It is reasonable to assume that the lift and shift provisions inserted in the existing wayleave agreements are there to enable NR to require the removal or relocation of NPG apparatus on NR's land, where this is needed for alterations or improvements to be made to the railway. Such agreements are not in place for all such apparatus and the Scheme could not be secured without the proposed Order. [7.35, 7.39]. I see no good reason why NR should not use the provisions within existing wayleave agreements where these are already in place. NPG would have been aware of those provisions when the agreements were entered into. Although NPG might prefer to be reimbursed for the costs of any diversions works that can be secured under existing wayleave agreements, this is not a sufficient reason for amending the draft provisions within Schedule 19. For this reason, and in the absence of any specific justification for the existing draft provisions to be revised [7.40], I conclude that no amendments to Part 1 of Schedule 19 are required.
- 8.57 The objection submitted by NGN (OBJ12) is, on its own terms, a holding objection and I agree that this is unsupported by any evidence of substantive concerns about the protective provisions set out in the draft

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Order [7.41]. Again, therefore, I am unable to conclude that any revision of or amendments to part 1 of Schedule 19 is necessary.

- 8.58 I conclude that the provisions made within Schedules 18 and 19 of the draft Order provide adequate protection to statutory undertakers and utility providers in respect of their apparatus and interests. With these provisions in place, I find that the Scheme would not have an adverse effect on the ability of such providers to carry out their undertakings effectively, safely and in compliance with their statutory and contractual obligations.

## **6. The impact of the Scheme on other development proposals in the local Dewsbury area.**

- 8.59 For the reasons set out in paragraphs 8.37-8.38 above, the Scheme would not have a significant adverse effect on the delivery of new housing and associated development at the Dewsbury Riverside site in accordance with the development plan allocation within the Council's LPADD. No evidence has been submitted that other development proposals within the Dewsbury area would be affected by the Order Scheme.

## **7. The adequacy of the ES submitted with the application for the TWA Order, having regard to the requirements of the Transport and Works Act (Applications and Objections Procedure) Rules 2006.**

- 8.60 The process and methodology for the preparation of the ES is set out in Chapter 3 of the ES Volume 2i (Scheme-Wide Assessment) in Core Document NR16A. The ES has been prepared in accordance with an Environmental Scoping Report and a Scoping Opinion issued by the DfT. Based on my review of the document I am satisfied that the ES has been prepared in accordance with 2006 Rules. [3.67]
- 8.61 The ES considers all of the construction and operational impacts of the Scheme and meets the requirements of the 2006 Rules. The ES follows a logical structure in accordance with the 2006 Rules. Each themed section includes an appropriate assessment of the baseline conditions and the effects of the Scheme. Each section also explains the embedded and other mitigation proposed and identifies residual effects of the Scheme [3.69]. The assessments incorporated within the ES have been carried out by consultants with appropriate qualifications and experience. I am satisfied that the ES sets out an adequate and thorough assessment of the potential environmental effects of the Scheme [3.68].
- 8.62 NR has submitted two updated sections of the ES in relation to Chapter 20 (Open Space) and Appendix 11-1 to the ES (FRA). These updates form part of the environmental information which is to be taken into account in the determination of the applications before the Secretaries of State. With those updates in place, there are no outstanding objections or concerns in respect of the scope or adequacy of the ES. The ES confirms that all



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relevant procedural requirements have been complied with and I have seen no evidence to the contrary. [3.68]

- 8.63 The impacts of noise and vibration have been adequately assessed in ES Chapter 8 and in Mr Lawrence's evidence which was not challenged at the Inquiry [3.72]. With the proposed mitigation measures in place no significant residual noise or vibration effects are predicted within the Scheme footprint. Temporary short-term, significant adverse effects are predicted in the wider study area due to construction traffic and temporary road diversions. [3.73]
- 8.64 During the operation of the Scheme, with mitigation in place, significant adverse effects will be avoided at all NSR in terms of internal amenity, and external amenity will be maintained where noise barriers are introduced to mitigate potential adverse effects. At 14 NSR, where the introduction of noise barriers is not feasible, there will be residual significant impacts on the external amenity of those properties. [3.74].
- 8.65 The impacts on air quality are set out in Chapter 7 of the ES and in Mr Pearson's evidence. This evidence confirms the adequacy of the assessment in relation to the impacts on air quality and is also unchallenged.
- 8.66 With the best practice and other measures which would be secured through the approval and implementation of the CoCP in place, there would be no residual significant adverse effects on air quality from construction activities or construction traffic. No significant adverse operational effects on air quality are predicted. The use of bi-modal trains on the Scheme route following completion of the works would result in a beneficial impact on air quality. This is not a significant effect in EIA terms. [3.76]
- 8.67 Chapter 17 of the ES sets out NR's assessment of the potential effects on climate change. At the predicted levels, the carbon emissions resulting from the construction of the Scheme are not considered to be significant in EIA terms. There would be a significant decrease in operational carbon emissions as a result of the ability to use bi-modal trains on the route. With the expected reduction in the UK's reliance on fossil fuels for electricity generation there is the potential that the Scheme could be carbon neutral by 2050, in line with UK government targets. [3.77]
- 8.68 The residual effects of the Scheme on the historic environment are considered later in this section where I deal with the LBC applications and effects on other designated heritage assets.
- 8.69 ES Chapter 10 identifies that the proposed construction compounds and various elements of the construction works, including the necessary removal of vegetation to facilitate those works, would be likely to have a significant adverse effect in landscape and townscape terms. These effects would, for the most part be temporary and would not have a permanent

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detrimental effect on the overall character of the local landscape and townscape. The OLE and its supporting infrastructure would introduce new elements within the landscape, but both these new elements and new sections of railway and new structures (viaduct and bridges) would be in keeping with the existing features within the railway corridor.

- 8.70 There would be adverse landscape and visual impacts in the early phase of operation. These would reduce as the replacement planting to be carried out as part of the Scheme becomes established. The future management of this planting would be secured through the LEMP. Overall the Scheme operation would have only limited adverse effects on the surrounding landscape and the visual amenity of the railway corridor. The likely transport and traffic effects have been considered above. I have found that an appropriate level of mitigation for these would be provided through the CoCP and CTMP. Any residual level of disruption can be regarded as an inevitable consequence of a major construction project of this type.
- 8.71 ES Chapter 15 provides an assessment of the potential effects on population and human health, having regard to various matters. The significant effects identified include the permanent loss of 3 cottages at Heaton Lodge and of garden space at a further 5 dwellings in order to facilitate the works. Some other residential properties would be affected by temporary land take and/ or disruption to the enjoyment of their properties. These effects have been reduced to a minimum through the Scheme design and optioneering and that a compensation scheme would be in place to deal with any permanent loss of property or costs arising from the temporary possession of land.
- 8.72 The other residual effects, including those relating to disruption to access to a children's nursery and areas of POS and delay and disruption to travel and the resultant inconvenience to the local community, would be temporary and, for the most part, of limited duration. There would be temporary adverse effects on some areas of POS in respect of recreational and visual amenity and the permanent loss of over 26,000 square metres of POS is also assessed as a permanent significant effect (ES Chapter 20). However, this will be compensated for by the provision of an equivalent amount of new POS in exchange [3.228-3.231].
- 8.73 In my assessment the ES has identified a wide range of mitigation measures to reduce the environmental effects of the Scheme. Where significant residual effects have been identified, these are largely of a form that could not reasonably be avoided given the nature and scale of the construction works and operational requirements of the Order Scheme. I consider that the residual effects are outweighed to a considerable degree by the pressing need for the railway improvements comprised in the

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Scheme and the substantial public benefits that will be secured through its implementation.

- 8.74 The Scheme is also likely to result in a number of significant environmental benefits [3.85], with those in terms of socio-economic impact forming a key part of the public benefits of the Order. As detailed in ES Chapter 21, these include the local employment and expenditure generated by the construction works and the considerable social and economic benefits that would be delivered by improvement to journey times and the reliability of the NTPR, an increased number and frequency of passenger services, and the improvements to passenger facilities at the four railway stations. The significant improvement in connectivity between the northern towns and settlements is recognised by KC, WYCA and TfN as being likely to make a positive contribution to economic prosperity and the regeneration of these settlements [3.18].

**8. The justification for the disapplication of legislative provisions, in particular flood risk activity and the surrender of environmental permits and what agreements have been reached with the EA in that regard.**

- 8.75 The detailed justification for the disapplication of legislative provisions in Article 5 of the Order has been clearly set out on pages 2-4 of the Explanatory Memorandum [NR03] and in Mr Pearson's PoE. The EA has accepted the need for and appropriateness of Article 5. The SoCG also records the agreement between NR and the EA as to the procedure to be followed for managing the submission of relevant design details pursuant to the protective provisions in Part 3 of Schedule 19 to the Order. There are no outstanding concerns in relation to Article 5. [3.86]
- 8.76 The EA objects to the inclusion of Article 6. It asserts that Article 6 is unnecessary because NR could achieve its objectives with regard to the transfer and surrender of the environmental permits which exist in respect of the Thornhill and Forge Lane landfill operations by using the provisions within the EPR. [5.16-5.21]. I do not share that view.
- 8.77 Paragraph 13 of Part 1 to Schedule 5 of the EPR states:
- "(1) Subject to sub-paragraph (3), the regulator must refuse an application for the ... transfer in whole or part of an environmental permit if it considers*

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*that, if the permit is.. transferred, the requirements of sub-paragraph (2) will not be satisfied.*

*(2) The requirements are that the ... proposed transferee of an environmental permit (in whole or in part), must-*

*(a) be the operator of the regulated facility, and*

*(b) operate the regulated facility in accordance with the environmental permit”*

Sub-paragraph 3 relates only to permits authorising the carrying out of a stand-alone water discharge, groundwater, or flood risk activity and is not relevant to the permits which are in place in this case.

- 8.78 On my reading, paragraph 13 makes it very clear that the EA (as the regulator) is not able to grant approval for the transfer of either of the existing environmental permits at the Thornhill or Forge Lane sites to NR since, in neither case, would NR be intending to become the operator of the regulated facility (a landfill site) or to operate the facility in accordance with the terms of the permit.
- 8.79 The EA’s representative at the Inquiry was unable to provide an explanation as to why the above interpretation is not correct. Nor was she able to provide me with any examples of a transfer of an existing permit to a person or body who is not intending to be the site operator or to operate the regulated facility in accordance with the permit that has been approved by the EA. [5.21] Without the details of any such precedent being available her suggestion that such transfers have been permitted amounts to little more than hearsay. Even if the transfer of a permit has previously been approved by the EA in similar circumstance there is no evidence to show that such action was carried out in accordance with the regulations. As noted by Counsel for NR, the extracts from guidance included within paragraphs 4.2.13 to 4.2.16 of the SoCG do not address the question, as to whether a transfer and surrender of an existing permit in these circumstances can be achieved via the EPR, at all [7.23].
- 8.80 There can, therefore, be no certainty that a transfer of the two existing environmental permits to NR could be achieved under the provisions of the EPR. Even if such a transfer was possible, there is no provision within the EPR that would allow applications for the surrender of the existing permits to be made by NR. Regulation 24(2) stipulates only for an application for surrender to be made by the existing operator of the regulated facility. Regulation 24 does not appear to make any provision for an application for the surrender of an existing permit to be made by any other person or body. [7.22]
- 8.81 I agree that the EPR neither contemplate nor make provision for the situation that is in prospect in this case, i.e. that the land that is subject to an environmental permit is acquired compulsorily for the purposes of

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railway works which will displace the facility that is regulated by that permit [7.23]. The disapplication of the EPR and its replacement with the bespoke procedure in Article 6 is, therefore, necessary so that the Scheme can be delivered. As I am not persuaded that the objectives of the Order could be achieved without the EPR being disapplied and replaced by appropriate alternative provisions I place little weight on the EA's concerns that this might set a precedent for other TWA Orders.

- 8.82 As amended, Article 6 sets out a clear process for the surrender of the permits. It would ensure that the EA would receive the same level and quality of information that would be required if the surrender had been sought under the EPR. This process will, therefore, ensure an appropriate level of environmental control and protection for the regulated facilities. [7.24-7.26] The one key difference is the deemed approval provision set out in Article 6(3)(3) of the draft Order. This is justified in order to avoid the risk of a delay to the scheme that could arise from the failure by the EA to determine the applications for the surrender of the Environmental Permits within the prescribed timescale [7.26]. In the event that the EA does not agree to the use of the arbitration process set out in Article 57 of the Order, the provisions in relation to dispute resolution provide for an almost identical process as the appeal provisions set out in the EPR, allowing for the determination of any refused application to be made by the SoS.
- 8.83 For these reasons, I conclude that Article 6, as amended, is necessary to ensure the delivery of the Scheme and that there is no good reason why this should be deleted. I also conclude that a clear case has been made for the disapplication of other legislative provisions as set out in Article 5 of the draft Order.

**9. The extent to which the Scheme is consistent with the NPPF, relevant national transport policy, and relevant local planning, transport and environmental policies including the West Yorkshire Carbon Emissions Reduction Pathways and KC's 2038 Carbon Neutral Vision.**

- 8.84 Having regard to the evidence in the Statement of Case [NR28], Planning Statement [NR14] and that presented by Messrs Rivero and Vernon, there is no doubt that the Order Scheme enjoys considerable support in strategic transport policy at both the national and regional level. This includes the National Infrastructure Strategy, Transport Investment Strategy and the IRP, published in November 2021. The IRP places added importance on the upgrading of the NTPR and gives this increased priority as the first phase of NPR, as part of the government's levelling up agenda. At the regional level the Scheme is consistent with, and strongly supported by, the Northern Transport Strategy, TfN's Strategic Transport Plan, WYCA's Transport Strategy and the Leeds City Region Strategic Economic Plan. [3.104-3.106]. For the reasons set out by NR, I agree that the Order

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Scheme is consistent with and derives some level of support from the NNNPS [3.107].

- 8.85 The request for deemed planning permission does not fall to be determined in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004. However, I accept NR's conclusion that the Scheme is in accordance with the broad thrust of national and local planning policy [3.107]. In particular, the proposal is compliant with Policies LP19 (strategic transport), and LP35 (historic environment)<sup>95</sup> of the LPSPD and would not prejudice the delivery of the new housing at Dewsbury Riverside as proposed in Policy LP65 (Site HS61) of the LPADD.
- 8.86 In relation to development in the Green Belt the LPSPD defers<sup>96</sup> to national planning policy as set out in section 13 of the NPPF. NR accepts that some of the works at Heaton Lodge and Steanard Lane would be inappropriate development in the Green Belt but contends that, with much of the new section of railway contained within a cutting, this would have a very limited effect on the openness of the Green Belt. My observations on my site visit confirm that assessment. I accept that the compelling need for the Scheme, in combination with the substantial public benefits that would be secured through its implementation, serves to provide the very special circumstances necessary to justify the inappropriate development in the Green Belt. The Scheme proposals are, therefore, consistent with the policies in Paragraphs 147 and 148 of the NPPF and with the development plan in this regard. [3.108-3.109]
- 8.87 For the reasons set out below, I find that, although the proposals would result in harm to a number of designated heritage assets, the tests set in paragraphs 200 to 202 of the NPPF are met, in that that harm would clearly be outweighed by the public benefits of the Scheme. In those cases where there would be substantial harm to the significance of two Listed Buildings, I find that the harm to the heritage assets is necessary to achieve those public benefits. Hence, there is no conflict with these policies. Section 7 of Mr Rivero's PoE sets out a detailed review of the consistency of the Scheme against other relevant policies within the NPPF. I have no evidence which would lead me to disagree with his conclusions [3.107]. I therefore find that the Scheme is consistent with and attracts support from the NPPF and the development plan.

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<sup>95</sup> See my conclusions with regard to the LBC applications and heritage matters in below.

<sup>96</sup> See paragraphs 19.2 to 19.8 of the LPSPD.

**10. Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the DLUHC on the “Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion” published on 29 October 2015 (as amended in July 2019):**

- (a) Whether there is a compelling case in the public interest to justifying conferring on NR powers to compulsorily acquire and use land for the purposes of the Scheme;**
- (b) Whether the purposes stated for which the compulsory purchase powers are sought are legitimate and sufficient to justify the interference with the human rights of those with an interest in the land affected (and so compatible with the Human Rights Act 1998 and the European Convention on Human Rights);**
- (c) Whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding;**
- (d) Whether all of the land and rights over land which NR has applied for is necessary to implement the Scheme.**

8.88 The substantial transportation, social and economic benefits that would flow from the implementation of the Order Scheme have been confirmed in the statements received from KC, WYCA and TfN and remain largely undisputed [3.37]. For the reasons set out in paragraphs 8.10 to 8.12 above, I find that there are no reasonable alternatives to the Scheme as proposed in order to secure the transport objectives of the Order.

8.89 It is notable that, although some 753 legal entities hold an interest in land affected by the Order, only 47 of these parties objected to the draft Order. Only 34 objections (not all of which were concerned with the compulsory acquisition powers) remained at the commencement of the Inquiry and this number had been reduced to 19 when the Inquiry closed. A number of the remaining objectors had indicated that heads of terms with NR had been agreed and that they expected to withdraw their objection in due course. [3.101] It can, therefore, be seen that considerable progress has been made in negotiating the acquisition of the land and rights needed for the Scheme by agreement. Those negotiations were being actively pursued by NR’s team throughout the duration of the Inquiry.

8.90 A number of those objecting to the compulsory acquisition complained that no meaningful negotiations had taken place before the application was made. However, in light of the clear progress made in agreeing terms with so many affected parties and having regard to Mr Billingsley’s evidence about the difficulties of completing the early acquisition of all legal interests in land required for a linear development project [3.100-

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3.101], I am satisfied that NR has complied with the government's guidance that compulsory acquisition powers should be sought only as a last resort.

- 8.91 A rigorous design and optioneering process has been followed, with the objective of minimising the amount of third party land required as one of the key objectives of that work [3.43-3.44]. There has also been a rigorous assessment of the best means of constructing the works in a safe and efficient manner whilst, at the same time, seeking to limit both the physical extent of the land for which temporary occupation is required and the duration over which temporary occupation or access is needed [3.59].
- 8.92 I note that the further detailed design yet to be carried out if the Order is made may enable the encroachment on third party land to be reduced in some sections of the route [3.51]. However, NR has demonstrated the need for the geographical extent of the Limits of Deviation, as defined on the Order Plans, and that all of the land and rights for which powers of compulsory acquisition are sought is necessary to facilitate the implementation of the Order within a reasonable timescale. The concerns raised in the remaining objections about the proposed compulsory acquisition have not been borne out [8.13-8.46].
- 8.93 The evidence sets out a comprehensive justification for the inclusion of powers of compulsory acquisition as set out in the draft Order and that these powers are needed immediately to ensure the delivery of the Order Scheme [3.88-3.102]. Clear evidence of the availability of funding for the proposed acquisitions and implementation of the Scheme has been provided [3.38-3.39,3.94]. NR has demonstrated, subject to making of the Order and approval of the related applications, that there would be no impediments to the implementation of the Order Scheme [3.96-3.98].
- 8.94 As demonstrated in paragraph 2.2 of Mr Billingsley's PoE, the railway purposes of the Order Scheme, and the public benefits that would flow from its implementation, are sufficient to justify the interference with the human rights of the landowners affected by the proposed compulsory acquisition. The draft Order and the compensation provisions included within it strike an appropriate balance between the private interests of landowners and the public interest in securing the benefits of the Scheme to the national railway network. The draft Order is, therefore, compatible



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with the Human Rights Act 1998 and the European Convention on Human Rights. [3.98]

- 8.95 For the reasons set out above, I find that there is a compelling case in the public interest for conferring the compulsory purchase powers sought by NR if the Order is made.

### **11. The deemed planning permission and the conditions to be attached to that permission.**

- 8.96 The works identified within Core Document NR12 as being works which are, or may be, development requiring planning permission form part and parcel of the wider Order Scheme and are essential for the implementation of the Scheme. The case for the making of a Direction to the effect that planning permission, insofar as this is required, shall be deemed to be granted has, therefore, been clearly made [3.117].
- 8.97 A schedule of draft conditions which had previously been agreed between NR and KC was the subject of a round table discussion at the Inquiry. Some modifications were made to the draft conditions as a result of those discussions. The amended form of those draft conditions is set out in Document INQ-12 App2 [3.116]. No objection to these draft conditions, as amended, has been made by any interested party.
- 8.98 I have considered the proposed conditions with regard to the tests set out in paragraph 56 of the NPPF and am satisfied that all of these are necessary, relevant to planning and the development to be permitted, are enforceable, precise and reasonable in all other respects. I have also considered the reasons for each of the conditions as set out in Document INQ-12 App2 and find these to be clear and precise.
- 8.99 I have incorporated the amended conditions and reasons in the schedule of conditions at Appendix D to this report, with only minor rewording in the interests of clarity and consistency. This schedule sets out all of the conditions that I consider should be attached to the deemed planning permission if a Direction is made to this effect. Some of the conditions include a 'tail piece' element which would provide for some future amendment to the details of the condition if subsequently agreed in writing. Although often resisted in planning appeal cases, NR have advised that this form of condition has been accepted in other TWA Order decisions. I have, therefore, left these in the suggested conditions for consideration by the SoS.

### **12. Whether all the statutory procedural requirements have been complied with.**

- 8.100 I have reviewed the Applicant's Compliance Pack [INQ-04] and find nothing of concern with what is set out in that document. One of the

remaining objectors raised a concern about the service of the notices required under Rule 15 of the 2006 Rules. I find that those concerns are not borne out by the evidence presented to the Inquiry [1.25-1.35]. No other concerns have been raised. I am, therefore, satisfied that all statutory procedural requirements have been complied with.

**13. The purpose and effect of any substantive changes proposed to the draft Order and whether anyone whose interests are likely to be affected by such changes has been notified.**

8.101 Two sets of changes to the draft Order have been put forward by NR since the application was made. These are described in paragraphs 3.112 to 3.113 of the report. The revised form of the draft Order in the form that NR now seek that it should be made is set out in Documents INQ-9A (tracked changes version) and INQ-10A (clean version). One set of amendments has been made at the request of KC and follows detailed negotiations between KC and NR. The other set of amendments has been put forward to address specific concerns raised by the EA which were explored in NR's negotiations with the EA. No other parties would be affected by the proposed changes. I see no good reason why these amendments should not be incorporated into the TWA Order if the SoS decides that this should be made. [3.112-3.114]

**14. Any other matters which may be raised at the inquiry which may be important and relevant to the Secretary of State's decision.**

8.102 The aspirations, aired by KCC and HU/HCS, in relation to the opening up of a new access to Huddersfield Station from the north-western side are understandable. This provision would no doubt bring positive benefits to station users and assist the wider regeneration of Huddersfield Town Centre, if and when such an access could be achieved. However, I agree with NR that there is insufficient clarity about the Station Gateway proposals, as envisaged in the Huddersfield Blueprint, in order for any such proposal to be incorporated in the Order. The private ownership of the land to which the new entrance would need to connect to means that this proposal would more sensibly need to be taken forward by KC in consultation with HD1. As is made clear in the evidence, the Scheme does all that it should reasonably be expected to do in supporting that initiative by safeguarding the potential for the subway and new footbridge to be extended at some future date. [7.1-7.9].

8.103 As the provision of additional parking and cycle parking at Huddersfield Station was not identified among the detailed Scheme requirements, as agreed between NR and the DfT, it would not be reasonable to expect these enhancements to be included within the Order Scheme at this stage [7.9]. The existing levels of provision will not be reduced by the Scheme works and passengers will have improved access to the existing cycle parking as a result of the improvements to the lifts and stairs at the station [7.8]. Improved lighting to the underside of Huddersfield Viaduct

at John William Street may be desirable. However, I see no reason why this should be provided by NR rather than by KC as the local highway authority. I do not agree that the widening of Span 1 by approximately 2.3m will have a significant effect in terms of the lighting conditions under the viaduct [4.6] .

8.104 Mr Kitson (OBJ02) raised a concern that it was difficult to understand the effect of the Scheme on footpaths and bridleways. This information is comprised within the ES and has been dealt with satisfactorily in the evidence to enable me to draw the conclusions in paragraph 8.50 above. The objection from Mr Kelly (OBJ03) is of a wide ranging nature and does not raise any specific concerns about the Order Scheme to which NR could reasonably be expected to respond. NR has not provided a rebuttal to the comments raised by Longley Holdings Limited (REP01) as this was not an objection to the Scheme. NR has, however, confirmed more generally that it has contacted and sought to engage with all parties affected by the compulsory acquisition and that negotiations with affected parties to seek acquisition by agreement will continue up to and beyond the making of the Order. [3.99, 3.102]

8.105 No other relevant matters were raised at the Inquiry which are not already dealt with elsewhere in this report.

#### **In relation to the applications for Listed Building Consent**

**15 The extent to which the proposed works affecting the Listed Buildings ("the works") are in accordance with the development plan for the area including any 'saved policies'.**

**16 The weight that should be attached to the development plan and any emerging plans.**

**17. The extent to which the works would accord with the heritage and other provisions of the NPPF and in particular the desirability of sustaining or enhancing the character or appearance of the heritage assets.**

8.106 I address these issues together in the following paragraphs which also consider the application of the statutory duties in respect of the determination of the LBC applications.

8.107 The legislative and policy framework upon which Network Rail's evidence is provided is outlined in Ms Rees-Gill's PoE and within each of the Heritage Assessments submitted with the LBC applications (NR17-NR25).

8.108 The statutory duty contained within s16(2) of the LBCAA relates to LBC applications. It requires that special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 66(1) echoes

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this requirement in relation to whether to grant planning permission for development which affects a listed building or its setting. Section 72(1) concerns development and works within conservation areas and requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 17 of the Act relates to the power to impose conditions on the grant of listed building consent.

- 8.109 The application of the statutory duties is guided by the policies in Section 16 of the NPPF. Paragraph 197 requires that, in determining applications, account should be had to: (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 8.110 Paragraph 199 advises that, when considering the impact of a proposed development on the significance of designated heritage assets, 'great weight' should be given to their conservation. Paragraph 200 advises that significance can be harmed or lost through the alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification. Substantial harm to or loss of Grade II listed buildings should be exceptional.
- 8.111 Paragraph 201 states that, when finding substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss<sup>97</sup>. When finding less than substantial harm, Paragraph 202 advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. [3.82]
- 8.112 Paragraph 204 advises that the loss of the whole or part of a heritage asset should not be permitted without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. Paragraph 205 requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However,

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<sup>97</sup> Paragraph 201 lists four circumstances which, if all are met by the proposal, would negate the need to demonstrate that the substantial harm is necessary to secure the substantial public benefits. None of those circumstances are applicable to the assets that are the subject of the LBC applications.

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the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

- 8.113 In its development plan KC recognises that heritage assets are an irreplaceable resource. It states that development proposals should aim to conserve them in a manner appropriate to their significance. Policy LP35-Historic Environment, of the LPSPD is consistent with the policies in Section 16 of the NPPF and should be given full weight.
- 8.114 NR's assessment of the significance of the various designated assets, and of the effects of the Scheme on those assets, has been carried out in accordance with advice in the DMRB. The methodology for and scope of the assessment were agreed with and are supported by both KC and HE [3.79]. I agree that the historic environment assessment is sufficient to enable an understanding of the value and significance of the historic environment; the identification of heritage assets affected and where appropriate mitigation measures are required. There is, therefore, sufficient information within the application documents, the ES and the evidence submitted to the Inquiry for the SoS to be able to reach fully informed and clear conclusions on each of the LBC applications. [3.128, 3.201]
- 8.115 I am satisfied that the proposed development and works which have the potential directly or indirectly to affect designated heritage assets and/or their settings, have been guided by robust assessments of the significance of the assets affected and of the Route, along with consultation with relevant stakeholders [3.79, 3.118]. The detailed and collaborative design development and optioneering process undertaken for each of the listed buildings affected, demonstrates that the options chosen are the most optimal and practicable and that they seek, as far as possible, to limit any harmful effects and maximise any enhancements and/or benefits [3.46-3.49, 3.119].
- 8.116 NR's assessment of the significance of the NTPR and of the 9 assets that are the subject of LBC applications focuses largely on the assessment of significance against the heritage values outlined in HE's 'Conservation Principles'.<sup>98</sup> In applying the most recent government guidance, I have also assessed the significance of the heritage assets against the definition of significance as stated in the glossary to the NPPF and Planning Practice Guidance (PPG).<sup>99</sup>

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<sup>98</sup> Conservation Principles, Policies and Guidance, Historic England, 2008 (under review).

<sup>99</sup> Planning Practice Guidance: Paragraphs: 006 Reference ID: 18a-006-20190723 and 007 Reference ID: 18a-007-20190723 [NR88]

- 8.117 In relation to the assessment of the 'setting of a heritage asset', I have had regard to the definition as stated in the glossary to the NPPF and as explained in PPG<sup>100</sup>. In relation to the consideration of the 'public benefits' of the Scheme, I have had regard to the definition as stated in PPG<sup>101</sup>.

### **Significance of the Transpennine Route**

- 8.118 The Route evidences the development of railway transport infrastructure during the 19th century, providing an insight into the industrial, commercial and social context of the time, and demonstrates the power of the railway in shaping the places and communities around it. Its phased construction, involving a variety of companies, engineers and architects, resulted in conscious design approaches along parts of the Route. Their execution in different styles, using different materials has created a fortuitous design overall. [3.120-3.125]
- 8.119 The significance of the listed buildings along the Route, which include tunnels, viaducts and both masonry and cast iron bridges, is intimately linked with the form and function of the railway as a whole. They demonstrate pioneering engineering and construction techniques, employing high-quality design and materials, and a craftsmanship and attention to detail that elevates them above a purely functional role. [3.124]

### **Listed Building Applications**

#### ***LBC1 – Huddersfield Railway Station, St George's Square, Huddersfield (Grade I)***

- 8.120 It would be difficult to overstate the significance of Huddersfield Railway Station. One of only eight Grade I listed stations in the country, it is of exceptional heritage merit, with its significance being enhanced by the continuation of its historic operational form and function as a major cross Pennine transport hub. The building is a focal point within the Town centre. Its presence is highly conspicuous in short and long range views and vistas from public spaces and routes which surround the station complex. Its significance is derived in part from its historic interest as an outstanding example of a major operational railway station dating from the 19th century. It retains clear evidence of both its original construction, between 1846-50 during the Heroic Age of railway development, and its expansion during the 1880s. The station's association with architect J P Pritchett and the two railway companies for which it was designed and constructed, also contributes to its significance. [3.131-3.134]
- 8.121 The building's architectural interest is a major contributor to its significance. Key elements are the main station building with a neo-Classical ashlar

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<sup>100</sup> Paragraph: 013 Reference ID: 18a-013-20190723

<sup>101</sup> Planning Practice Guidance Paragraph: 020 Reference ID: 18a-020-20190723.

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façade which dominates St George's Square; the Euston Roof that dates from the 1880s expansion and which, itself, is an incredible feat of engineering; the island tearooms; and the platform arrangement. These features combine to create an iconic, landmark building and station complex which help to denote the importance of the NTPR. Its significance is also drawn from the place it holds and meaning that it has in the collective memory of the local and wider regional communities that experience it, and from the important role it played in influencing Huddersfield's development and in shaping a townscape with a distinct character and strong sense of place.

- 8.122 The station derives some significance in being part of a group of railway structures including the former goods yard buildings and Huddersfield Viaduct. The immediate and wider environs of the station, including St George's Square with its handsome civic buildings, the goods yard and viaduct, provide a setting to the station which positively contributes to its significance. The station and the surrounding railway complex are prominent structures within the Huddersfield Town Centre Conservation Area. They contribute positively to the Area's character and appearance and, thus, to its significance as a designated heritage asset. [3.204]
- 8.123 NR, KC and HE agree that the proposed works to Huddersfield Station would be multifaceted and that the resultant effects to the station's fabric and environs would be considerable [3.135]. The works to the trainshed roof would involve the irreversible loss of historic fabric from a principal contributor to the building's historic and architectural integrity. These works would compromise the station's late-19th century design, greatly altering how the station complex would be experienced and its significance would be appreciated. Conversely, these works would positively sustain Roof A's long term conservation through the proposed strengthening works, and reinstate original features that have been lost in earlier changes to the building fabric, most notably through the reprovision of the lantern along the full length of retained Roof A.
- 8.124 The retention and refurbishment of the historic timber tearooms is positive in principle. However, the proposed dismantling, storage and reconstruction of this building, in a slightly different location and orientation, and the proposal to introduce three new canopy columns through its structure, give rise to concerns about the feasibility of the process and the consequent harmful effects to the significance of the station if these interventions are not successful. [3.134]
- 8.125 The new roof canopies, new footbridge and OLE would introduce sizeable and unashamedly modern features into the station complex and its immediate environs. I consider that the canopies and footbridge would respond to the station's context in their design and, together with the OLE, would be wholly honest interventions. However, in terms of their size and form, these new elements would interrupt and/or detract from views within, into and out of the station complex. This would have the effect of

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weakening that part of the station's significance which is drawn from its setting. This effect would also apply to the setting of Huddersfield Railway Viaduct (LBC2).

- 8.126 The removal of the signal box, relay room and cable gantry between platforms 1 and 4, which currently detract from the aesthetic merit of the station and interrupt views through to the west side of the complex, would positively enhance the significance of the Station [3.140].
- 8.127 In summary, I find that the proposed works to Huddersfield Railway Station would fail to preserve the special interest of the listed building and its setting. However, whilst the individual effects of the works would be varied and extensive they would not, cumulatively result in the total loss of the asset's significance. On this basis, I conclude that the works proposed would result in less than substantial harm to the significance of this designated heritage asset [3.141].
- 8.128 In accordance with the statutory duties and with paragraphs 199 and 201 of the NPPF, this harm should be given considerable importance and weight and requires to be balanced against the public benefits of the proposal and the Scheme (see below).

***LBC2 – Huddersfield Railway Viaduct (MVL3/92) between John William Street and Alder Street, Huddersfield (Grade II)***

- 8.129 Huddersfield Railway Viaduct is a monumental masonry structure which is highly prominent in views and vistas within Huddersfield Town Centre. It is of significance in its own right and because of its intimate, physical and functional association with Huddersfield Station. [3.142]
- 8.130 Its significance is drawn in part from its historic interest, in providing a superb example of a mid-19th century railway viaduct associated with the Heroic Age as part of the Huddersfield & Manchester Railway. This is augmented by the relatively few alterations that have been carried out to the structure and the clear legibility of its expansion in the 1880s. The viaduct's significance also stems from its architectural interest, both in its sheer size and form as well as its robust and harmonious design, which combine to create a landmark building that dominates the townscape. Its construction as a substantial feat of railway engineering also contributes to this aspect of its heritage interest and significance. [3.143]
- 8.131 As with the station, the viaduct's significance also stems from the place it holds and meaning it has in the collective memory of the people and communities that have, do or will experience it as part of the Town's cherished local scene. Moreover, it is an important element of the railway infrastructure within Huddersfield which has played a fundamental role in shaping its townscape and skyline.
- 8.132 The viaduct derives some significance in being part of a group with other viaducts on the NTPR as well as from its relationship with the station and



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associated railway infrastructure. The general setting of the viaduct provides many different opportunities and ways to experience the heritage merit of the structure. This positively contributes to its significance. In my assessment, the viaduct (in part) and the station complex, are prominent structures within the Huddersfield Town Centre Conservation Area. They contribute positively to its character and appearance [3.205] and, thus, to its significance as a designated heritage asset.

- 8.133 The works would involve extensive and permanent changes to the historic fabric and appearance of the viaduct. The remodelling at Spans 1 and 29 would involve the loss of historic fabric which evidences its late 19th century expansion. It would alter the appearance of the viaduct at these locations and change how the structure is perceived and its significance appreciated when viewed from the public routes which intersect with the spans. Nevertheless, the viaduct's historic function would be maintained and, to some extent, enhanced. Additionally, the design and materials of the proposed interventions would respect and be sensitive to the character and appearance of the existing structure, while still allowing them to be read as a new and additional phase in the building's development. [3.144-3.147]
- 8.134 The installation of OLE would result in several sizeable portal frames and substantial fixings being connected to the structure, mostly to its exterior. The positioning of the portals and fixings would largely reflect the rhythm of the viaduct's design and the loss of historic fabric would be minimal [3.145]. However, in my judgement, this would not be sufficient to offset the physical and visual disruption that would be caused to the existing, fairly uncluttered parapet line and external elevations. In these respects, the equipment and fixings would detract from the character and aesthetic quality of the viaduct and reduce its heritage interest. For similar reasons, the introduction of the new signal gantry would result in similar harmful effects, albeit to a lesser extent.
- 8.135 The reconstruction/strengthening of the abutment to Span 4 in matching masonry, combined with other strengthening works to allow for the installation of the OLE, would generally be positive in safeguarding the longevity of the structure [3.146].
- 8.136 Although it would comprise new railway infrastructure, the introduction of the overtly modern OLE within the setting of the viaduct and station would diminish that part of its significance which is drawn from its setting. This effect would also apply to the setting of the station. In a limited way it would also adversely affect the value that the viaduct contributes to the group.
- 8.137 In summary, I consider that the works proposed to Huddersfield Viaduct would fail to preserve the special interest of the listed building and its setting. However, while far-reaching, these works would not cause the total loss of the building's significance. On this basis, they would result in less than substantial harm to the significance of this designated heritage asset.

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This harm is to be given considerable importance and weight and requires to be balanced against the public benefits of the proposal and the Scheme (see below).

***LBC3: Wheatley's Colliery Overbridge (MVL3/103), Ashley Industrial Estate, Leeds Road, Huddersfield (Grade II)***

- 8.138 The significance of Wheatley's Colliery Overbridge is derived in part from its historic interest. This is found in its representation of, and links with, the Heroic Age of railway development, A S Jee and the Huddersfield & Manchester Railway; as well as its collective and communal merit as a historic connecting route to a colliery. Its significance also stems from its architectural interest as a functional, but aesthetically pleasing, 19th century engineered railway structure, including its late 19th century alteration. That alteration was respectful of its original design and materials and from its group value as one of 22 bridges associated with A S Jee on the NTPR and one of six such bridges that share a commonly styled construction. [3.149]
- 8.139 The works would result in the total and irreversible loss of the bridge and the consequent eradication of its heritage interest. Together with the substantial demolition of Colne Bridge Road Overbridge (LBC4), its loss would harmfully diminish the collective heritage merit of the group. [3.149-151, 3.154]
- 8.140 It is the demolition of Wheatley's Colliery Overbridge that requires LBC rather than the construction of the proposed replacement. Nevertheless, I am mindful that the design and materials of the new bridge have been selected such that this new structure would respect and reflect the historic context of the site. It would also include the incorporation of permanent interpretation in respect of the history of the Overbridge and the former colliery that it originally served. [3.152-3.153]
- 8.141 I find that the works would wholly fail to preserve the special interest of the listed building. Whilst the identification of substantial harm to the significance of designated heritage assets is a high test, that finding is appropriate in this instance given the wholesale demolition of the heritage asset. [3.155] As advised in paragraph 200 of the NPPF, the total loss of or substantial harm to a designated asset should be exceptional. This needs, therefore, to be given considerable importance and weight. NPPF paragraph 201 requires that it be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss (see below).

***LBC4: Colne Bridge Road Overbridge (MVL3/107) Colne Bridge Road, Bradley, Huddersfield (Grade II)***

- 8.142 Similarly to Wheatley's Colliery Overbridge, the significance of Colne Bridge Road Overbridge largely stems from its historic interest as an illustrative, and largely unaltered, example of an original 1840s overbridge constructed

during the Heroic Age and its association with A S Jee and the Huddersfield & Manchester Railway. Its significance is also derived from its architectural interest, in demonstrating construction techniques of the 19th century and using high quality design detail and good quality materials. Its group value with the other bridges associated with A S Jee on the NTPR which display a similar design language also contributes to the significance of the bridge. [3.156-3.157]

- 8.143 The works would result in the irreversible loss of a considerable amount of the bridge's historic fabric. They would severely compromise the form and function of those parts that would be preserved. The retained sections would maintain the legibility of the bridge's historic alignment to a degree and the form of the remaining arches would be perceptible. [3.158] In addition, the design and materials proposed for the replacement bridge would be respectful to its context. Nevertheless, I find that the extent of loss and the introduction of a contrasting new structure would profoundly erode the heritage interest of this designated asset. Together with the total loss of Wheatley's Colliery Overbridge (LBC3) the works would weaken the group value of the A S Jee bridges on the Scheme route and the NTPR. [3.157]
- 8.144 The proposed works would fail to preserve the special interest of the listed building. As noted in paragraph 8.141 above, the identification of substantial harm to the significance of designated heritage assets is a high test. It is, nevertheless, an appropriate finding in this case given the extent of historic fabric to be removed and the level of intervention into the remaining parts of the listed building proposed. Substantial harm to a designated asset should be exceptional and should be given considerable importance and weight. The NPPF requires that it be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss (see below).

***LBC5: Mirfield Viaduct (MVN2/192), Newgate, Mirfield, (Grade II)***

- 8.145 The significance of Mirfield Viaduct is derived in part from its historic interest, as a good example of an 1830s viaduct evidencing the Pioneering Age; along with its association with the renowned engineer George Stephenson. The bridge's architectural interest contributes to its significance, in its conscious and detailed design which has a robust but attractive quality. Significance is also drawn from its group value with Calder (Wheatley's) Underbridge (LBC6), with which it shares common design characteristics. No significance is derived from the later extension which is not included in the listing. [3.166-3.167]
- 8.146 The proposed works would result in the installation of three sizeable OLE portals on the bridge and the loss of a relatively small amount of historic fabric at their point of fixing [3.168]. The portal frames would detract from the character and aesthetic quality of the bridge and alter how it is experienced and its significance is appreciated, particularly when viewed

from the north. However, this would be moderated by the positioning of the portal frames on the original masonry side within the inside face of the parapet and their sensitive alignment with the existing piers, which would echo the symmetry and rhythm of the bridge's design [3.169]. As such, even though the works would undoubtedly weaken some aspects of the bridge's architectural interest, its historic interest would be maintained. The collective heritage merit of the group would not appreciably be reduced.

- 8.147 I find that the works would fail to preserve the special interest of the listed building. However, given their fairly limited extent, the works would result in less than substantial harm to the significance of this designated heritage asset [3.170]. That harm should be given considerable importance and weight and requires to be balanced against the public benefits of the proposal and Scheme (see below).

***LBC6: Calder (Wheatley's) Underbridge (MVN2/196), Steanard Lane, Mirfield (Grade II)***

- 8.148 The significance of Calder (Wheatley's) Underbridge largely stems from its historic interest as a good example of an early 19th century viaduct, constructed during the Pioneering Age, and its association with George Stephenson. It derives some significance from its architectural interest, as a result of its impressive, considered and high-quality design and sympathetic widening. Significance is also drawn from its group value with Mirfield Viaduct (LBC5), with which it shares a common design language. [3.171-3.172]
- 8.149 The works would result in the fixing of two large OLE portals and a handrail as well as the loss of a small amount of historic fabric at the points where the portals would be fixed [3.173]. The portal frames would detract from the character and aesthetic quality of the bridge and alter how it is experienced and its significance is appreciated from adjacent public routes. These adverse effects would be tempered by the sensitive installation of the portal frames within the inner face of the parapet and their sympathetic spacing and alignment, which would echo the symmetry and rhythm of the bridge's design. Even though the works would weaken some aspects of the bridge's architectural interest, its historic interest would be maintained. The collective heritage merit of the group would not appreciably be reduced. [3.174-3.175]
- 8.150 I find that the proposed works would fail to preserve the special interest of the listed building. However, given their fairly limited extent, they would result in less than substantial harm to the significance of this designated heritage asset. Considerable importance and weight should be given to that harm and this needs to be balanced against the public benefits of the proposal and Scheme (see below).

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***LBC7: Occupation Underbridge (MDL1/10), Land off Thornhill Road, Westtown, Dewsbury (Grade II)***

- 8.151 The significance of Occupation Underbridge is derived from its historic interest as a largely unaltered example of a mid-19th century underbridge constructed during the Heroic Age and its associations with leading railway engineer, Thomas Grainger. Its architectural interest, which is found in its measured design and good quality materials, providing a pleasing aesthetic to an engineering structure with a modest function, also contributes to its significance. The bridge possesses group value with other structures along the Scheme route constructed for the Leeds, Dewsbury & Manchester Railway, which share a similar design language. [3.176]
- 8.152 The proposed works would involve no loss of historic fabric, with the bridge essentially being preserved in situ and the south east elevation remaining visible. The infilling to the south east elevation would be sensitive to the structure's design and would maintain some degree of legibility of the historic structure. [3.177, 3.180] Nevertheless, the works would result in the permanent encasement of the bridge's north west elevation and the detrimental alteration of its fundamental historic form and function. It would also disrupt the ability to appreciate its aesthetic qualities as a whole. [3.177]
- 8.153 Together, these adverse effects would radically change how the bridge is perceived and experienced and would detrimentally diminish its heritage interest. These effects would principally be recognised in relation to it as an individual structure but also to some extent in its contribution to the group of similar structures, although this would not be appreciable.
- 8.154 I find that the works would fail to preserve the special interest of the listed building. The works would be considerable and, given the largely unaltered appearance of the bridge, would have tangible and lasting implications in relation to its heritage interest. I am mindful that substantial harm is a high test and, in view of the fact the structure would survive, albeit that it would partially be encased in the new earth embankment, I find that the works would result in less than substantial harm to the significance of this designated heritage asset [3.181]. That harm should be given considerable importance and weight and requires to be balanced against the public benefits of the proposal and the Scheme (see below).

***LBC8: Toad Holes Underbridge (MDL1/12), off Watergate Road, Westtown, Dewsbury (Grade II)***

- 8.155 The significance of Toad Holes Underbridge stems from its historic interest as a rare, surviving example of a mid-19th century, cast iron level beam bridge constructed during the Heroic Age of railway development, and its associations with railway engineer Thomas Grainger and the Leeds, Dewsbury & Manchester Railway. [3.182]

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- 8.156 Its significance also derives from its architectural interest, comprised in its conscious bold design and good quality materials, providing an uncharacteristic grandeur to what is a functional engineering structure; as well as in evidencing 19th century masonry and cast iron bridge construction and strengthening techniques. Its group value, as one of a number of Thomas Grainger bridges along the NTPR, including Ming Hill (LBC9), with which it shares a common design language, also contributes to its significance. [3.182]
- 8.157 The existing partial infilling and modern deck replacement have removed its historic function and adversely impacted on how the bridge is experienced and understood. These changes have manifestly compromised the historic and architectural integrity of the bridge although its heritage interest is still legible in its south east elevation. [3.183]
- 8.158 The works would involve no loss of historic fabric, would be sensitive to the architectural qualities of the structure and would slow its deterioration [3.184-187]. However, they would further alter the historic form and function of the bridge. Inevitably, this would further undermine the bridge's heritage interest and significance, both as an individual heritage asset and as part of a group. The fact that the bridge is largely inaccessible, both physically and visually, is not pertinent to the assessment of effects as listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building are available.
- 8.159 I find that the works would fail to preserve the special interest of the listed building. Mindful of the historic alterations to the structure and the fairly limited extent of the works, the proposals would result in less than substantial harm to the significance of this designated heritage asset [3.187]. This harm should be given considerable importance and weight and requires to be balanced against the public benefits of the proposal and the Scheme (see below).

***LBC9: Ming Hill Underbridge (MDL1/14), Ming Hill, Land Off Huddersfield Road, Westtown, Dewsbury (Grade II)***

- 8.160 As in the case of Toad Holes Underbridge (LBC8), the significance of Ming Hill Underbridge is derived from its historic interest as a rare, surviving example of a mid-19th century cast iron level beam bridge, constructed during the Heroic Age, and its association with Thomas Grainger and the Leeds, Dewsbury & Manchester Railway. Its significance also stems from its architectural interest, comprised in its conscious bold design and good quality materials, providing an uncharacteristic grandeur to what is a functional engineering structure, as well as in evidencing 19th century masonry and cast iron bridge construction and strengthening techniques. Its group value as, one of a number of Thomas Grainger bridges, including Toad Holes with which it shares a common design language, also contributes to its significance. [3.188]

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- 8.161 The partial infilling and modern deck replacement have removed the historic function of the bridge and have had a detrimental impact on how the bridge is experienced and understood. This has compromised its historic and architectural integrity although its heritage interest is still legible in its south east elevation. [3.188]
- 8.162 The proposed works would involve no loss of historic fabric, would be sensitive to the architectural qualities of the structure and would slow its deterioration. However, they would further alter the historic form and function of the bridge. Inevitably, this would further undermine the bridge's heritage interests and thus its significance as an individual heritage asset and as part of a group. The fact that it is largely both physically and visually inaccessible is not pertinent to the assessment as listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
- 8.163 I find that the proposed works would fail to preserve the special interest of the listed building. Mindful of the historic alterations to the structure and given their fairly limited extent, the works would result in less than substantial harm to the significance of this designated heritage asset [3.194]. That harm needs to be given considerable importance and weight and to be balanced against the public benefits of the proposal and the Scheme (see below).

### **Summary of Findings on the LBC Applications**

- 8.164 In all 9 cases, the Scheme proposals would fail to preserve the special interest of the respective designated heritage assets and would result in harm to their significance. Specifically, they would lead to substantial harm to two Grade II listed buildings and less than substantial harm to one Grade I listed building and six Grade II listed buildings.
- 8.165 In line with the NPPF and relevant case law,<sup>102</sup> great weight is to be given to the conservation of the designated assets and considerable importance and weight should be given to the desirability of preserving the assets and their settings. Any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification. Substantial harm to or loss of a Grade II listed building should be wholly exceptional.
- 8.166 Where a proposal would lead to substantial harm to a designated heritage asset, it needs to be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm. Where a proposal would lead to less than substantial harm, this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

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<sup>102</sup> Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137.

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- 8.167 As set out earlier in this report, the pressing need for the Scheme has been clearly demonstrated and the public benefits that would flow from its implementation are substantial [3.37, 8.88]. These benefits would include a number of heritage and other benefits that would be secured through the interventions to the designated assets [3.136, 3.140, 3.147, 3.164, 3.187, 3.193].
- 8.168 Having reviewed all the relevant evidence I find that, where substantial harm has been identified (in respect of Applications LBC3 and LBC4), the proposed works are necessary to achieve the substantial public benefits of the Scheme and that those substantial public benefits would outweigh the harm found. Overall, the harm would be clearly and convincingly justified. On this basis, the proposals meet the requirements of the LBCAA and a grant of consent for these applications would be consistent with the statutory duties which are placed on the SoS. The proposals also comply with paragraphs 199, 200 and 202 of the NPPF and with Policy LP35 of the LPSPD.
- 8.169 In the 7 cases (LBC1, LBC2, LBC5, LBC6, LBC7, LBC8 and LBC9) where the harm identified would be less than substantial, I find that that harm would clearly be outweighed by the substantial public benefit of the Scheme. In each case, the harm would be clearly and convincingly justified. On this basis the proposals underpinning the LBC applications meet the requirements of the LBCAA and a grant of consent in respect of these applications would be consistent with the statutory duties placed on the SoS. The proposals comply with paragraphs 199,200 and 201 of the NPPF and with Policy LP35 of the LPSPD.

**18. If consent for the works is granted, the need for any conditions to ensure they are carried out in a satisfactory manner.**

- 8.170 In coming to the above conclusions in respect of the LBC applications I am conscious of the importance of the suggested conditions in ensuring that the works would be of the high-quality commensurate with the significance of the affected assets and be implemented to the high-standard that is necessary. The conditions are essential as tools for securing the mitigation (embedded, additional and compensation) that has been agreed with KC and HE as well as the benefits advanced as justification by NR for the harm that would be caused to the assets.
- 8.171 A fundamental element in this process would be the production and implementation of the proposed CIMPs. These are crucial for ensuring that the Scheme, as a further phase or chapter in the development and history of the NTPR, would be as respectful and as sensitive to the significance of the heritage assets along it, as the expansion that took place in the 1880s.
- 8.172 A schedule of suggested conditions was attached to each of the listed



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building consent applications. A revised set of conditions was submitted to the Inquiry [INQ-06] following NR's further discussions with both KC and HE. This document formed the basis of the round table discussion at the Inquiry and further amendments were made following that discussion [3.119, 3.128, 3.199]. I consider that the conditions, as amended, are capable of providing the assurances required in terms of delivering the heritage and public benefits of the Scheme. Appendix E sets out the conditions which I recommend should be attached to the LBCs if these are approved.

- 8.173 In my judgement the suggested 'Approved Drawings' conditions are not necessary, as adherence to the plans which accompany the applications would be part of the formal decision. I, therefore, recommend that proposed Condition 2 in each of the Schedules of Conditions as they appear in Document INQ-06A should be omitted and that the list of approved plans and drawings should, instead, be included in a schedule attached to each decision.
- 8.174 I consider that all of the other suggested conditions in INQ-06A are necessary. I have carried these forward into the Schedules within Appendix E to this report with some minor corrections to some words and drawing numbers. Appendix E sets out the conditions which I recommend should be attached to the LBCs if these are granted.

### **Other Designated Heritage Assets Affected**

#### ***Huddersfield Town Centre Conservation Area***

- 8.175 The character and appearance of the Huddersfield Town Centre Conservation Area is largely derived from the many fine, late-18th and 19th century buildings and structures which, together, create a distinct townscape and a strong sense of place. By virtue of their age, monumental form, grand design and communal status, all evidencing a key historic phase of the town's development, the historic railway infrastructure of Huddersfield Station and Viaduct make substantial and positive contributions to the character and appearance of the Conservation Area and, hence, to its significance. [3.205]
- 8.176 The Scheme would result in temporary harmful effects to the character and appearance of the Conservation Area due to the proposed construction compounds and works to the station and viaduct. These works would have a temporary adverse effect on the significance of the Conservation Area [3.206]. These effects would, however, be subject to additional mitigation through the requirement, under proposed Condition 5 of the conditions to be attached to the deemed planning permission, that the CoCP for the works to Huddersfield Station and Viaduct should include measures to mitigate the effect of the works on the Conservation Area.

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- 8.177 The Scheme would, in part, sustain and better reveal the significance of the station and viaduct. It would also result in the irreversible loss and/or alteration of some of their historic fabric. There would also be permanent changes to their setting through the introduction of modern features and OLE [8.125, 8.134]. I consider that these changes would be highly conspicuous and readily apparent in views from the many public vantage points within and around the station complex and vehicular routes through the Town Centre.
- 8.178 NR submits that these effects would result in less than substantial harm to the heritage interests and significance of these designated heritage assets. That view is supported by KC. [3.207] However, if the significance of such notable and highly prominent buildings within the townscape would be permanently harmed, I consider that there would, necessarily, be some residual and incremental harm to the character and appearance of the Conservation Area as a whole.
- 8.179 In light of that conclusion, I find that the Scheme would fail to preserve or enhance the character or appearance of the Town Centre Conservation Area as a whole. Given the fairly localised extent of the works relative to the size of the Conservation Area, they would result in less than substantial harm to the significance of this designated heritage asset. As in the case of the other designated assets, the NPPF requires that this harm be given considerable importance and weight and that it needs to be balanced against the public benefits of the Scheme (see below).

***Calder and Hebble Navigation Underbridge (MDL1/6) and River Calder Underbridge (MDL1/8) (Grade II)***

- 8.180 The significance of the Calder and Hebble Navigation Underbridge and the River Calder Underbridge largely stems from their historic interest. They are superb, and largely unaltered, examples of mid-19th century cast iron railway bridges, believed to be the seventh oldest to survive in the world and have a strong association with the renowned railway engineer, Thomas Grainger, and a leading fabricator, Stanningley Iron Works. Also important is their architectural interest in terms of their construction techniques, using cast iron and gothic architectural detailing, which provides artistic interest, and their presence as dramatic features within the landscape which helps to create a local collective sense of place. The bridges also derive some significance from their group value, both with each other and with other Grainger-engineered cast iron structures on the former Leeds, Dewsbury & Manchester Railway. [3.208]
- 8.181 The wide expanse of the surrounding landscape permits short and long range views and allows an appreciation of the bridges' magnificence spanning the respective waterways. On this basis, their setting contributes considerably and positively to their significance.

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- 8.182 The decommissioning of the bridges, following the construction of the Baker Viaduct, would have the benefit of removing the structural stresses that they undergo as a result of daily operational use. This, in turn, would reduce the need for further strengthening interventions and could prolong their longevity, albeit that some ongoing maintenance and management would be required. [3.211] However, the effect of making the bridges redundant for operational purposes would be to disconnect them from their historic function and, in turn, to reduce their significance to a considerable degree.
- 8.183 Due to the design and materials that are proposed, the new offline viaduct would not necessarily compete with the exceptional design quality of the historic bridges [3.210]. However, the introduction of such a sizeable new structure in such close proximity would inevitably detract from their setting when viewed from public routes from the south east. This would have a negative effect in terms of how the bridges are experienced and their significance is appreciated. This adverse effect would, however, be offset to some degree by the opening up of new views of the two bridges that would be available from trains passing over the Baker Viaduct and the resultant opportunities for enhanced awareness of the bridges by passengers on the NTPR [3.210].
- 8.184 Having regard to these conclusions, I find that, overall, the Scheme would fail to preserve the setting of the Calder and Hebble Navigation Underbridge and River Calder Underbridge and the contribution that their setting makes to the significance of the two listed buildings. Taking account of the positive effect of the proposals, in that the ability to appreciate the bridges would remain and be enhanced when viewed from the new viaduct, I assess the harm to their significance as less than substantial [3.212]. That harm should be given considerable importance and weight and requires to be balanced against the public benefits of the Scheme (see below).

### ***The Railway Coal Chutes and Tramway with Walls and Gates***

- 8.185 The significance of the Coal Chutes stems largely from their historic interest, as a surviving example of an early 20th century coal chute structure, and with their association with the London North Western Railway and Huddersfield Corporation Tramways. Some significance is also derived from their architectural and archaeological interest as remnants of the industrial era. Due to changes to the historic context of the Coal Chutes, the structure's immediate setting makes a limited contribution to its significance. [3.217]
- 8.186 The erection of construction compounds and construction activity within the vicinity of the Coal Chutes would detract from the heritage interest of the structure and alter the ability to appreciate its significance. These harmful effects to its setting and thus its significance would, however, be temporary in nature. [3.218]

8.187 The proposed development and works in the vicinity of the Coal Chutes would not permanently change how they are experienced. As such, the Scheme would preserve the setting of the listed building and the limited contribution this makes to its significance. The structure's inclusion in the CoCP Part B (Condition 5 b) vii of the Deemed Planning Permission) would ensure no permanent harmful effects would arise from the Scheme. [3.218]

### ***Huddersfield Broad Canal, Locks and Bridges***

8.188 The significance of the canal is derived from its historic interest, as a surviving element of the 18th century transport network, and its associations with the historic townscapes and landscapes through which it passes and the nearby railway line. The significance of the locks stems from their continued function and association with the waterway as a navigable route. Modern development in close proximity to some of the locks has reduced the contribution that their setting makes to their significance. However, the historical, physical and functional relationships between the canal, lock and railway are clearly evident at Number 2 Lock where its setting positively contributes to the lock's significance as a designated heritage asset. [3.219-3.220]

8.189 The erection of construction compounds and/or construction activity within the vicinity of Riddings Lock (Lock 6), Fieldhouse Lock (Lock 7), Hall Wood Lock (Lock 5) Red Doles (Lock 9) and Number 2 Lock would detract from the heritage interest of the locks and canal and alter the ability to appreciate their significance. Nevertheless, these harmful effects to their setting and significance would be temporary in nature. [3.223]

8.190 Some of the works proposed, including the installation of the new Colne Bridge Road Overbridge, following the substantial demolition of the existing listed bridge, would result in permanent changes within the vicinity of Number 2 Lock. These changes would erode the immediate, soft-landscaped setting of Number 2 Lock and adversely alter how the lock and the canal are experienced and its significance is appreciated in combination with the adjacent railway line. [3.223]

8.191 For these reasons, I conclude that the Scheme development and works within the vicinity of Number 2 Lock would fail to preserve its setting and the contribution that this makes to the listed building's significance. Given the fairly localised extent of the development and works, this would result in less than substantial harm to the significance of this designated heritage asset. Considerable importance and weight should be attached to this harm and the harm requires to be balanced against the public benefits of the Scheme (see below).

### ***St George's Warehouse (Grade II)***

8.192 The significance of St George's Warehouse is derived from its historic interest as a largely unaltered, late-19th century element of railway infrastructure which is integrally associated with Huddersfield Railway

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Station. It also stems from the building's architectural interest in that, even though functional in form, it displays an aesthetically pleasing level of detail and quality in its materials and design. The immediate and wider surroundings allow short and long range views of the building and permit an appreciation of its historic physical, visual and functional relationship with the station and other railway infrastructure nearby. As such, the warehouse's setting makes a notable and positive contribution to its significance. [3.213]

- 8.193 The Scheme works involve various permanent physical and operational changes to Huddersfield Station. Although the removal of two bays from the southern end of the main Euston Roof (Roof A) would involve the detrimental loss of historic fabric, it would positively open up views of the warehouse from St George's Street. In addition, the removal of the signal box and relay room on the station's island platform would permit views of the warehouse when entering the main station building. These works would result in greater legibility of the historic relationship between the station and the former goods yard and their respective buildings.[3.214]
- 8.194 The development and works also include the construction of a new platform and new canopies at the western end of the Station. These would be sited, immediately adjacent to the warehouse and to its wagon lift which is a feature of particular historic interest [3.213]. NR asserts that there is a majority view (i.e. a view shared by NR, KC and HE) regarding the effects of the proposed new canopies on the setting of the warehouse [3.216, 7.59-7.60].
- 8.195 Having regard to that evidence, I acknowledge that, overall the proposals for the upgrading of the station would open up views from the platforms, thereby increasing railway customers' awareness of the former goods yard and the buildings within it and perceptions of historic links between these and the station itself. However, this positive benefit of the Scheme would largely be derived from the demolition of the redundant signal box and relay room, rather than from the new platform canopies. I consider that the degree to which these new, sizable and defiantly modern roof canopies would encroach into the warehouse's immediate setting would distract from the building's setting and appearance and result in some disruption in the ability for viewers to see the structure as a whole. This would adversely alter how the building is experienced.
- 8.196 I find that, on balance, the works proposed to Huddersfield Railway Station would fail to preserve the setting of St George's Warehouse and diminish the contribution that it makes to the building's significance. Given the fairly localised extent of the development and works, this would result in less than substantial harm to the significance of this designated heritage asset. As in respect of the other assets, where less than substantial harm has been identified, this harm needs to be given considerable importance and weight and is to be balanced against the public benefits of the Scheme (see below).

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***Summary re Other Designated Heritage Assets Affected***

- 8.197 The Scheme would preserve the setting of the Railway Coal Chutes and Tramway with Walls and Gates and would not harm the significance of this designated asset. In these respects, the proposals meet the requirements of the LBCAA and comply with paragraphs 199 and 200 of the NPPF and Policy LP35 of the LPSPD.
- 8.198 The Scheme proposals would not, however, preserve the character and appearance of the Huddersfield Town Centre Conservation Area. In addition, they would fail to preserve the settings of Calder and Hebble Navigation Underbridge (MDL1/6) and River Calder Underbridge (MDL1/8); Number 2 Lock; and the St George's Warehouse in the former goods yard. In each case, I assess the harm to these designated heritage assets as being less than substantial having regard to the policies in Section 16 of the NPPF.
- 8.199 In line with the NPPF policies and case law, great weight is to be given to the assets' conservation and considerable importance and weight must be given to the desirability of preserving the heritage assets and their settings. However, in respect of all of the assets listed above, I find that the harm would clearly be outweighed by the public benefits of the Scheme. The proposals in respect of these heritage assets, therefore, meet the requirements of the LBCAA and comply with the policies in paragraphs 199, 200 and 202 of the NPPF and Policy LP35 of the LPSPD. Some of the works affecting these assets would be subject to the controls set out in the proposed LBC conditions. Others would be subject to the conditions proposed to be attached to the deemed planning permission as set out in Appendix D. I am satisfied that, in combination with the proposed CIMPs in respect of the LBC works, these conditions would secure the necessary quality of the works and ensure that they are carried out in a manner which is sensitive to their heritage context.
- 8.200 For these reasons, I conclude that all of the LBC applications should be approved. I also conclude that there are no grounds, in terms of the likely effect of the Scheme works on listed buildings and other designated heritage assets for not making the TWA Order or for not issuing a Direction that planning permission for the Order Scheme is deemed to be granted.

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**In relation to the applications for Certificates to be issued under Section 19(1) of the Acquisition of Land Act 1981**

**Whether the tests set out in Sections 19(1(a) and (b) are satisfied in respect of the applications made under those specific parts of the Act.**

8.201 In relation to the POS to be acquired under the Order for which exchange land is proposed, s19(1)(a) requires that that exchange land:

- should be not less in area than the POS to be acquired;
- be equally advantageous to persons, if any, who are entitled to rights of common or other rights, and to the public; and
- will be vested in the persons in whom the POS to be acquired was vested and be subject to like rights and incidents as attach to the POS to be acquired.

8.202 Chapter 20 of the Main ES Volume 2i, as amended [INQ-13], includes a detailed calculation of the areas of the parcels of POS that would be lost as a result of the Scheme and of the areas of new POS proposed in exchange. These figures, which are agreed by KC, show that the total area of exchange land would be equivalent to the combined total of all those areas of POS (with an individual parcel size of 250 square yards (209 square metres) [3.229]. As set out in the Application for the Open Space Certificates [NR26] and Mr Rivero's evidence to the Inquiry, the proposed areas of exchange land would be equally advantageous to the public and equally accessible to the local communities that might be expected to make greatest use of the POS [7.81].

8.203 Although Mr Forbes contends that some of the land affected by the proposed compulsory acquisition is not POS there appears the Council has not questioned its status as POS and I have not information to suggest that it is not so designated. There is no dispute that the POS to be acquired is not subject to any rights of commoners or other rights. The concerns raised by Mr Forbes about the potential effects on those members of the public who currently enjoy the use of the areas of POS affected by the Order have been satisfactorily addressed. The land offered in exchange would be transferred to KC and would be managed as POS with the same rights of usage as the land to be acquired. [7.81]

8.204 Compliance with the tests set out in s19(1)(a) has, accordingly been demonstrated in respect of five areas of existing POS as described in paragraphs 5.1 to 5.5.7 of NR26. It would, therefore, be appropriate for the SoS to issue the Certificates under s19(1)(a) in relation to those areas as requested.

8.205 My examination of the evidence in INQ-13 and NR26 confirms that all of the other parcels of POS to be acquired fall below the 209 square metre

minimum size specified in s19(1)(b) of the ALA. It can, therefore, safely be concluded that no exchange land is required in relation to those areas of POS described in paragraphs 5.6 to 5.8.5 of NR26. It would, therefore, be appropriate for Certificates under s19(1)(b) to be issued in relation to those areas of POS.

## **9. RECOMMENDATIONS**

### **Recommendations to the Secretary of State for Transport**

#### **9.1 I RECOMMEND that:**

- a) The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 202[] be made in the modified form shown in Document INQ-10A.
- b) A Direction be made under section 90(2A) of the Town and Country Planning Act 1990 to the effect that planning permission be deemed to be granted for the works authorised by the Order, subject to the planning conditions set out in Appendix D to this report.

### **Recommendations to the Secretary of State for Levelling Up, Housing and Communities.**

#### **9.2 I RECOMMEND THAT:**

- a) Listed Building Consent for various works to Huddersfield Railway Station including total demolition of roofs B and C; demolition of two bays of Roof A at the Manchester end; new section of canopy on the Penistone platform; the installation of two bays on Roof A at the Leeds end of the station; reinstatement of lantern to the whole of Roof A; platform alterations and extensions; new island platform; extension of existing passenger subway; infilling of disused parcel subway; demolition of signal box, relay room and cable gantry between platforms 1 and 4; relocation of tea rooms; provision of new eastern footbridge and lifts/stairs and canopies and provision of overhead electric line equipment at Huddersfield Railway Station, St George's Square, Huddersfield be granted in accordance with the application reference 2021/91328, dated 31 March 2021, subject to the conditions set out in Part 1 of Appendix E to this report.
- b) Listed Building Consent for works on Huddersfield Viaduct including the reconstruction of Span 1 (MVL3/92 (John William Street)); strengthening works to the abutment of Span 4 (Fitzwilliam Street); reconstruction of part of Span 29 (Bradford Road); provision of parapet handrails and pattress plates and installation of overhead electric line equipment and a signal gantry at railway viaduct between John William Street and Alder Street, Huddersfield be granted in accordance with



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the application reference 2021/91329, dated 31 March 2021, subject to the conditions set out in Part 2 of Appendix E to this report.

- c) Listed Building Consent for demolition and replacement of Wheatley's Colliery Overbridge (MVL3/103) adjacent to Ashley Industrial Estate, Leeds Road, Bradley, Huddersfield be granted in accordance with the application reference 2021/91337, dated 31 March 2021, subject to the conditions set out in Part 3 of Appendix E to this report.
- d) Listed Building Consent for demolition and replacement of Colne Bridge Road Overbridge (MVL3/107), Colne Bridge Road, Bradley, Huddersfield be granted in accordance with the application reference 2021/91330, dated 31 March 2021, subject to the conditions set out in Part 4 of Appendix E to this report.
- e) Listed Building Consent for erection of overhead line structures on Mirfield Viaduct (MVN2/192), Newgate, Mirfield be granted in accordance with the application reference 2021/91333, dated 31 March 2021, subject to the conditions set out in Part 5 of Appendix E to this report.
- f) Listed Building Consent for erection of overhead line structures and handrail on Calder (Wheatley's) Underbridge (MVN2/196), Steanard Lane, Mirfield be granted in accordance with the application reference 2021/91344, dated 31 March 2021, subject to the conditions set out in Part 6 of Appendix E to this report.
- g) Listed Building Consent for infill and embankment widening of Occupation Underbridge (MDL1/10), adjacent to Thornhill Road, Westtown, Dewsbury be granted in accordance with the application reference 2021/91334, dated 31 March 2021, subject to the conditions set out in Part 7 of Appendix E to this report.
- h) Listed Building Consent for total infill and deck reconstruction of Toad Holes Underbridge (MDL1/12), Toad Holes, off Watergate Road, Westtown, Dewsbury be granted in accordance with the application reference 2021/91335, dated 31 March 2021, subject to the conditions set out in Part 8 of Appendix E to this report.
- i) Listed Building Consent for total infill and deck reconstruction of Ming Hill Underbridge (MDL1/14), Ming Hill, off Huddersfield Road, Westtown, Dewsbury be granted in accordance with the application

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reference 2021/91336, dated 31 March 2021, subject to the conditions set out in Part 9 of Appendix E to this report.

- j) The Secretary of State should issue the certificates requested by Network Rail under section 19 of the Acquisition of Land Act 1981 in accordance with the details set out in Core Document NR26.

*Paul Singleton*

INSPECTOR

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## **APPENDIX A: APPEARANCES**

### **for Network Rail–:**

Timothy Mould Queens Counsel

Jacqueline Lean of Counsel

Both instructed by Roddy Macdonald of Eversheds Sutherland (International) LLP

They called:

David Vernon BA DipTP MRTPI	Partner, Carter Jonas
Graham Thomas CEng MICE	Associate Director, Ove Arup and Partners
Mike Pedley CEng MICE	Engineering Manager, BAM Nuttall Ltd
Chris Williams MEng MICE	Associate, Ove Arup and Partners
Graham Foulkes BA MSc CMILT	Managing Consultant (Transportation), Atkins Ltd
Tony Rivero BSc MRTPI	Town Planning Manager, Network Rail
Jim Pearson BSc IEMA	Environmental Manager, Network Rail
Katie Rees-Gill BA NA MCIA	Associate Director, Atkins Ltd
Adam Lawrence BA CEng FIA	Associate, Atkins Acoustics, Noise and Vibration
Niall Machin BSc CIEEM	Technical Director (Ecology) Johns Associates Ltd
Nigel Billingsley Bsc DipUS RICS	Partner, Bruton Knowles

### **Supporters**

#### **SUP03: Huddersfield Unlimited and Huddersfield Civic Society**

Hugh Goulborne Non-Executive Director, Huddersfield Unlimited

### **Objectors**

#### **OBJ14: Yorkshire Children's Centre**

Richard Farr RICS Partner, Sanderson Weatherall

#### **OBJ25: Kirklees Cycling Campaign**

Chas Ball Chair of Kirklees Cycling Campaign

#### **OBJ42: Veolia**

Ian Roberts General Manager, North West Territory  
**Environment Agency**

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Carol Bolt Solicitor

Nick Bayer Flood Risk Advisor

**Discussions on Planning and Listed Building Conditions**

**Kirklees Council Officers:**

Richard Hollinson Head of Major Projects

Elaine Orme Senior Transport Planner

Nick Grimshaw Team Leader: Conservation and Design

Mathias Franklin Head of Planning and Development

**Network Rail:**

Tony Rivero Town Planning Manager, Network Rail

Katie Rees-Gill – Associate Director – Atkins Ltd

Pam Butler Associate Director, Atkins Ltd

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## **APPENDIX B: INQUIRY DOCUMENTS**

- INQ-01 Opening Statement on behalf of Network Rail Infrastructure Limited (NR)
- INQ-02 List of Appearances on behalf of NR
- INQ-03 Status of Objectors affected by the Order Compulsory Acquisition Powers (position as at opening of the Inquiry)
- INQ-03A Updated Status of Objectors affected by Order Compulsory Acquisition Powers (position as at close of the Inquiry)
- INQ-04 Statutory Procedure Compliance Pack
- INQ-05 Paper of Order Amendments (to be read in conjunction with Inquiry Documents INQ-09 and INQ-10)
- INQ-05A Updated Paper of Order Amendments (to be read in conjunction with INQ-09A and INQ-10A)
- INQ-06 Consolidated Amendments to NR's Proposed Conditions to be attached to the Listed Building Consents (if granted)
- INQ-06A Consolidated amendments to NR's proposed conditions for the Listed Building Consent Applications – Amendments to INQ-06 shown in track changes
- INQ-07 Post-application correspondence between NR and Historic England (HE)
- INQ-08 NR letter to Transport Infrastructure Planning Unit dated 28 October 2021
- INQ-09 Draft Order including Proposed Amendments as of 2 November 2021 (amendments shown as tracked changes)
- INQ-09A Draft Order including Proposed Amendments as of 2 December 2021 (amendments shown as tracked changes)
- INQ-10 Draft Order including Proposed Amendments as of 2 November 2021 (clean copy)
- INQ-10A Draft Order including Proposed Amendments as of 2 December 2021 (clean copy)
- INQ-11 Amended List of Consents, Permissions or Licences required under other enactments
- INQ-12 Consolidated Amendments to NR's Proposed Conditions to be attached to the deemed planning permission (if directed)

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- INQ-12A Amended conditions proposed to be attached to the direction for deemed planning permission – Amendments dated 30 November 2021 to Appendix 2 (NR12)
- INQ-12B Amended conditions proposed to be attached to the direction for deemed planning permission – Amendments dated 2 December- amendments to INQ-12A shown as tracked changes
- INQ-13 Environmental Statement: Volume 2i Chapter 20: Public Open Space as amended (2 November 2021) (amendments shown as tracked changes)
- INQ-14 Post-application correspondence between NR and Natural England (NE) regarding NR’s proposed applications for protected species licences (bats) and a badger licence in consequence of the TWA Order works
- INQ-14A Post-application correspondence between NR and NE in relation to EPS Mitigation Licences(Luronium Natans)
- INQ-15 Plan identifying location of Thornhill Quarry and Dewsbury Sand and Gravel quarry
- INQ-16 Notice of Revocation of the Kirklees Council Huddersfield Town Centre Blueprint as a Supplementary Planning Document dated 27 October 2020
- INQ-17A Green Belt Plan-Heaton Lodge Curve
- INQ-17B Green Belt Plan-Steanard Lane, Mirfield
- INQ-18 List of Kirklees Cycling Campaign Advisers
- INQ-19 NR correspondence to Huddersfield Town AFC dated 8 November 2021
- INQ-20 Kirklees Council letter of support for Order Scheme dated 5 November 2021
- INQ-21 West Yorkshire Combined Authority (WYCA) Letter of Support for Order Scheme
- INQ-21A WYCA email to Inquiry Programme Officer re letter of support
- INQ-22 Supplementary objection submitted by Veolia dated 16 November 2021
- INQ-23 Summary Note on the Agreement reached between NR and WYCA dated 8 November 2021
- INQ-24 Calder Road Design Refinement Technical Note 8.11.21
- INQ-25 Summary Note on Agreements between NR and KC
- INQ-26 Historic Environment Technical Note
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- INQ-27 Northern Power Grid (Yorkshire) Ltd letter to Inspector dated 23 November 2021
- INQ-28 NR Commitments letter to HD1 Developments dated 25 November 2021
- INQ-29 Huddersfield Station Subway Drawing
- INQ-30 NR Commitments Letter to Veolia dated 25 November 2021 including Construction Sequencing Document
- INQ-31 NR Response to Veolia Supplementary Objection
- INQ-32 NR Note on Integrated Rail Plan for the North and Midlands
- INQ-33 Integrated Rail Plan for the North and Midlands
- Q-34 Network Rail Note on Rule 15 Notices and copies of Rule 15 Notices served on DP Realty Limited, Kinder Properties Limited and R&D Yorkshire Limited
- INQ-35 Network Rail Note on Cycling Policy together with Local Transport Note: LTN 1/20 Cycling Infrastructure Design and Traffic Management Act 2004: Network management to support recovery from COVID-19
- INQ-36 Goods Vehicle Operator's Licence, Veolia 21 October 1991
- INQ-37 Huddersfield Town Centre Conservation Area Map
- INQ-38 Environment Agency Statement on Flood Risk 2 December 2021
- INQ-39 Network Rail and Environment Agency Statement of Common Ground dated 2 December 2021
- INQ-39A Network Rail and Environment Agency Further Statement of Common Ground dated 7 December 2021
- INQ-40 Note on NR Commitment to Apprenticeships and Recruiting Local Labour
- INQ-41 Closing Submissions on behalf of Network Rail
- INQ-42 Inspector's Directions 6 December 2021
- INQ-43 Itinerary for Inspectors' Site Visits on 1 and 2 December 2021
- INQ-44 David Strafford (Gateley Hamer) email dated 11 November 2021 re Rule 15 Notices
- INQ-45 Inspector's Notice of Closure of the Inquiry dated 8 December 2021.

**APPENDIX C: CORE DOCUMENTS** (hyperlinks within this list link to documents in NR's own application website)

<b>Transport and Works Order and Related Application Documents</b>	
NR01	<a href="#">Application</a>
NR02	<a href="#">Draft Order</a>
NR03	<a href="#">Explanatory Memorandum</a>
NR04	<a href="#">Statement of Aims</a>
NR05	<a href="#">Funding Statement</a>
NR06	<a href="#">Estimate of Costs</a>
NR07	<a href="#">Consultation Report</a>
NR08	<a href="#">Book of Reference</a>
NR09	<a href="#">Deposited Plans and Sections and Open Space Plans</a>
NR10	<a href="#">List of Consents, Permissions or Licences</a>
NR11	<a href="#">Waiver Directions</a>
NR12	<a href="#">Request for Deemed Planning Permission and Conditions</a>
NR13	<a href="#">Planning Direction Drawings</a>
NR14	<a href="#">Planning Statement</a>
NR15	<a href="#">Design and Access Statement</a>
NR15A	<a href="#">Huddersfield Station Design and Access Statement</a>
NR16	<a href="#">Environmental Statement Volume 1 – Non-Technical Summary</a>
NR16A	<a href="#">Environmental Statement Volume 2 – Main Environmental Statement</a>
NR16B	<a href="#">Environmental Statement Volume 3 – Technical Appendices</a>
NR16C	<a href="#">Environmental Statement Volume 4 - Figures</a>



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NR17	<a href="#">Listed Building Consent Application No.1 – Huddersfield Station</a>
NR18	<a href="#">Listed Building Consent Application No.2 – Huddersfield Viaduct (MVL3/92)</a>
NR19	<a href="#">Listed Building Consent Application No.3 – Wheatley’s Colliery Lane Overbridge (MVL3/103)</a>
NR20	<a href="#">Listed Building Consent Application No.4 – B6118 Colne Bridge Road Overbridge (MVL3/107)</a>
NR21	<a href="#">Listed Building Consent Application No.5 – Mirfield Viaduct (MVN2/192)</a>
NR22	<a href="#">Listed Building Consent Application No.6 – River Calder (Wheatley’s) Underbridge (MVN2/196)</a>
NR23	<a href="#">Listed Building Consent Application No.7 – Occupation Underbridge (MDL1/10)</a>
NR24	<a href="#">Listed Building Consent Application No.8 – Toad Holes Underbridge (MDL1/12)</a>
NR25	<a href="#">Listed Building Consent Application No.9 – Ming Hill Underbridge (MDL1/14)</a>
NR26	Application for Open Space Certificates under S19 of the 1981 Acquisition of Land Act
NR27	Notice of Intention to issue Certificates under S19 of the 1981 Acquisition of Land Act
NR28	Statement of Case by Network Rail Infrastructure Limited

### **National Planning and Transport Policy Documents**

NR29	<a href="#">National Planning Policy Framework</a> 2019
NR29a	National Planning Policy Framework (Latest Review) 2021
NR30	<a href="#">National Policy Statement for National Networks</a> Dec 2014
NR31	<a href="#">National Infrastructure Strategy</a> Nov 2020
NR32	<a href="#">Rail Network Enhancement Pipeline</a> Sep 2019
NR33	<a href="#">Williams-Shapps Plan for Rail</a> Mar 2021

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NR34	<a href="#">Build Back Better: our plan for growth</a> Mar 2021
NR35	<a href="#">Union Connectivity Review</a> Mar 2021
NR36	<a href="#">10 Point Plan for Decarbonisation</a> Nov 2020
NR37	<a href="#">Transport Investment Strategy</a> Jul 2017
NR38	<a href="#">Levelling Up White Paper (announcement)</a> May 2021
NR94	DfT Rail Environment Policy Statement July 2021
NR108	Network Rail – The Traction Decarbonisation Network Strategy July 2021

### Regional and Local Planning and Transport Policy Documents

NR39	<a href="#">Kirklees Local Plan Strategies and Policies</a> Feb 2019
NR40	<a href="#">Kirklees Local Plan Allocations &amp; Designations Document</a> Feb 2019
NR41	<a href="#">The Huddersfield Blueprint (Town Centre SPD)</a> Oct 2019
NR42	<a href="#">Transport for The North Strategic Transport Plan</a> Feb 2019
NR43	<a href="#">West Yorkshire Combined Authority Transport Strategy</a> Aug 2017
NR44	<a href="#">Leeds City Region Strategic Economic Plan</a> May 2016
NR45	<a href="#">Northern Way Growth Strategy</a> May 2014
NR46	<a href="#">One North</a> – Joint Publication by Northern Cities July 2014
NR47	<a href="#">Northern Transport Strategy</a> Mar 2015
NR48	<a href="#">Northern Route Utilisation Strategy</a> Oct 2010
NR49	<a href="#">Long Term Planning Process – Regional Urban Market Study</a> Oct 2013
NR50	<a href="#">Rail needs for the Midlands and the North</a> Dec 2020
NR95	West Yorkshire Combined Authority Connectivity Infrastructure Plan Jan 2021

## Legislation, Circulars and British Standards

NR51	<a href="#">Compulsory Purchase Act 1965</a>
NR52	<a href="#">Control of Pollution Act 1974</a>
NR53	<a href="#">The Noise Insulation Regulations 1975 (as amended 1988)</a>
NR54	<a href="#">Ancient Monuments and Archaeological Areas Act 1979 (as amended)</a>
NR55	<a href="#">Highways Act 1980</a>
NR56	<a href="#">Acquisition of Land Act 1981</a>
NR57	<a href="#">Compulsory Purchase (Vesting Declarations) Act 1981</a>
NR58	<a href="#">Town and Country Planning Act 1990 (Section 90 (2A))</a>
NR59	<a href="#">Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 12(3A))</a>
NR60	<a href="#">Environmental Protection Act 1990 (Part III)</a>
NR61	<a href="#">Planning (Listed Buildings and Conservation Areas) Regulations 1990</a>
NR62	<a href="#">Transport and Works Act 1992</a>
NR63	<a href="#">Protection of Badgers Act 1992 (Section 10)</a>
NR64	<a href="#">Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992</a>
NR65	<a href="#">Railways Act 1993</a>
NR66	<a href="#">The Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996 (as amended)</a>
NR67	<a href="#">Transport and Works (Inquiries Procedure) Rules 2004</a>
NR68	<a href="#">Railways Act 2005</a>
NR69	<a href="#">Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006</a>
NR70	<a href="#">Transport and Works (Model Clauses for Railways and Tramways) Order 2006</a>

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NR71	<a href="#">Conservation of Habitats and Species Regulations 2017 (Regulation 55)</a>
NR72	British Standard 5228 Part 1 and Part 2 Dec 2008
NR73	BS6472-1:2008 Guide to evaluation of human exposure to vibration in buildings. Vibration sources other than blasting Jan 2019
NR74	BS4142:2014 Methods for rating and assessing industrial and commercial sound June 2008
NR75	<a href="#">Guidance on Compulsory Purchase Process and The Criche Down Rules – Department for Levelling Up, Housing, and Communities</a> July 2019
NR97	The Town and Country Planning (Environmental Impact Assessment) Regulations 2017
NR98	The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017
NR104	The Environmental Permitting (England and Wales) Regulations 2016

#### Other documents

NR76	<a href="#">Chartered Institute for Archaeologists (CIfA) (2017) Standard and Guidance for commissioning work or providing consultancy advice on archaeology and the historic environment</a> Oct 2020
NR77	<a href="#">Historic England. Historic Environment Good Practice Advice in Planning Note 2: managing significance in decision-taking in the historic environment</a> Mar 2015
NR78	<a href="#">Historic England. Historic Environment Good Practice Advice in Planning Note 3: The setting of heritage assets (2nd Ed)</a> Dec 2017
NR79	<a href="#">Historic England. Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment</a> Apr 2008
NR80	<a href="#">Historic England. Historic Environment Good Practice Advice in Planning Note 1: conservation area designation, appraisal and management</a> Feb 2019

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NR81	<a href="#">Historic England. Advice Note 7: Local Heritage Listing (2nd Ed)</a> Jan 2021
NR82	<a href="#">Historic England. Preserving Archaeological Remains Decision-Taking for Sites Under Development</a> Nov 2016
NR83	<a href="#">Understanding Historic Buildings, A Guide to Good Recording Practice</a> May 2016
NR84	<a href="#">Historic England. Infrastructure: Transport – Listing Selection Guide.</a> Dec 2017
NR85	TransPennine Route Statement of History and Significance: West of Leeds. Alan Baxter Associates Mar 2017
NR86	<a href="#">Kirklees Historic Landscape Characterisation Project Final Report</a> Jan 2017
NR87	MDL1/6 & MDL1/8 Bridges Statement of Significance. Alan Baxter Associates Mar 2017
NR88	<a href="#">National Planning Practice Guidance (Historic Environment)</a> Apr 2014
NR89	<a href="#">Design Manual for Roads and Bridges (DMRB) LA104 Environmental assessment and monitoring</a> Aug 2020
NR90	<a href="#">Design Manual for Roads and Bridges (DMRB) LA106 Cultural Heritage Assessment</a> Aug 2020
NR91	<a href="#">Noise Policy Statement for England (NPSE)</a> Mar 2010
NR92	<a href="#">Design Manual for Roads and Bridges (DMRB) LA111 noise and vibration</a> May 2020
NR93	<a href="#">Calculation of railway noise 1995</a> July 1994
NR96	Noise Action Plan: Railways (2019)
NR99	Protected Species Licence Application – Pipestrelle bats – Heaton Lodges Cottages Sep 2021
NR100	Protected Species Licence Application – Daubenton’s bats – Colne Bridge Viaduct Sep 2021
NR101	Protected Species Licence Application – Badgers – Heaton Lodge Curve [CONFIDENTIAL] Sep 2021

NR102	Design Manual for Roads and Bridges (DMRB) LA09 Geology and Soils Oct 2019
NR103	Transpennine Route Upgrade: Route-wide Statement of Significance, Alan Baxter Associates Aug 2019
NR 105	Network Rail, Biodiversity Action Plan Dec 2020
NR106	Observations on the impact of dredging on aquatic plants in the Huddersfield Broad Canal and some canal lengths of the Calder and Hebble Navigation May 2019
NR107	Additional Biodiversity Survey Results Report [CONFIDENTIAL] Sep 2021
NR109	Focus Transport News Article – LNER Announce New London Services from Bradford and Huddersfield Mar 2020
NR110	Yorkshire Live News Article – Huddersfield to get direct rail link to London after more than half a century of waiting May 2020
NR111	Independent News Article – LNER to Launch Faster Rail Links to London from Edinburgh, Newcastle and York May 2020
NR112	Network Rail (East West Rail) (Bicester to Bedford Improvements) Secretary of State decision letter July 2020
NR113	Sustainability Strategy July 2021
NR114	The Distribution, Ecology and Conservation of Luronium natans in Britain, Willby and Eaton 1993
NR115	River Calder Baseline Aquatic Macophyte Survey, Goldsmith Ecology Aug 2021
NR116	Valuing Bats in Ecological Impact Assessment, Wray, Long, Wells and Mitchell-Jones Dec 2010
NR117	RIA Electrification Cost Challenge Mar 2019

Statements of Common Ground		
NR-SOCG-1	NR and Kirklees Council SoCG	

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**Note:** The SoCGs signed between NR and the EA are included as Doc INQ-39 and 39A

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## **APPENDIX D: SUGGESTED CONDITIONS FOR DEEMED PLANNING PERMISSION**

### **Interpretation**

In the following conditions—

“the Code of Construction Practice” means the code of construction practice to be submitted to and approved by the local planning authority under condition 5 (code of construction practice), a draft of which (known as “Part A”) accompanies the Environmental Statement;

“the development” means the development authorised by the Order;

“the Environmental Statement” means the statement of environmental information submitted with the application for the Order on 31 March 2021;

“Historic recording to Level 1” means the level of recording in accordance with Historic England guidelines comprising a basic photographic record;

“the local planning authority” means Kirklees Council;

“Network Rail” means Network Rail Infrastructure Limited;

“the Order” means The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2021[];

“the Order limits” has the same meaning as in article 2 (interpretation) of the Order;

“the planning direction drawings” means the drawings listed in Appendix 3 to the request for deemed planning permission dated 31 March 2021;

“preliminary works” means environmental (including archaeological) investigations, site or soil surveys, ground investigations and the erection of fencing to site boundaries or the marking out of site boundaries; site clearance and de-vegetation; and the erection of contractors’ work compounds, access routes and site offices;

“Principal Station signage” means the station signage that will comprise the National Rail “double arrow” symbol and the relevant station name;

“the railway” means the railway comprised in the development;

“relevant buildings” mean the following structures:

- Wheatley’s (Colliery Lane) Bridge MVL3/103;
- Colne Bridge Road Bridge MVL3/107
- 1 and 2 Heaton Lodge Cottages;



- 
- Thornhill House, Thornhill Road, Westtown.

the “site” means land within the Order limits; and

“stage” means a defined section or part of the development the extent of which is shown in a scheme submitted to and approved by the local planning authority pursuant to condition 3 (stages of development); and reference to a numbered stage is to the stage of that number in the approved scheme.

### **1. TIME LIMIT FOR COMMENCEMENT OF DEVELOPMENT**

The development hereby permitted must commence before the expiration of five years from the date that the Order comes into force.

**Reason:** *To ensure that development is commenced within a reasonable period of time.*

### **2. IN ACCORDANCE WITH THE PLANNING DIRECTION DRAWINGS**

The development must be carried out in accordance with the planning direction drawings unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure that the development is carried out in accordance either with the consented design or such other design details as have been subjected to reasonable and proper controls.*

### **3. STAGES OF DEVELOPMENT**

No development (including preliminary works) is to commence until a written scheme setting out all the stages of the development has been submitted to and approved in writing by the local planning authority. Variations to the approved stages of development may be submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in accordance with the approved stages of development. Written notification shall be given to the local planning authority of commencement within each stage, not later than 21 days following commencement within the respective stage.

**Reason:** *To identify the individual stages for the purposes of these conditions.*

### **4. LANDSCAPING & ECOLOGY**

No development within the relevant stage (including preliminary works) is to commence until a Landscape and Ecological Management Plan (LEMP) for that stage has been submitted to and approved in writing by the local planning authority.

- a) The proposed LEMP for each Stage will include the following details:

- 
- i) A plan of existing trees and tree features (such as groups of trees or woodland) to be retained and to be removed in accordance with BS5837(2012).
  - ii) A plan of ecological mitigation details including areas of new plantings and details of any habitats created or enhanced.
  - iii) Implementation timetable and a programme for initial aftercare, long-term management and maintenance responsibilities for a period of five years post-completion.
  - iv) Details of organisation(s) responsible for maintenance and monitoring.
- b) The LEMP must reflect the survey results and ecological mitigation and enhancement measures set out in the Environmental Statement (Volume 2i: Scheme-wide Assessment, Chapter 9: Biodiversity, Section 9.6), and must also include the following ecological measures:
- i) The aims and objectives of the management to be undertaken.
  - ii) A programme of monitoring with thresholds for action as required.
  - iii) Full details of measures to ensure protection and suitable mitigation to all relevant protected species and those species identified as being of importance to biodiversity (including licensing mitigation requirements) including bats; Luronium Natans (Floating Water Plantain); badgers; reptiles, otter and water vole, where appropriate.
- c) The LEMP must include both hard and soft landscaping works, covering the locations where landscaping will be undertaken, and must also include the following details:
- i) Full detailed landscape plans indicating full planting specification, including layout, species, number, density and size of trees, shrubs, plants, hedgerows and/or seed mixes and sowing rates, including extensive use of native species;
  - ii) Any structures, such as street furniture, any non-railway means of enclosure and lighting;
  - iii) Any details of regrading, cut and fill, earth screen bunds, existing and proposed levels;
  - iv) Any areas of grass turfing or seeding and depth of topsoil to be provided;
  - v) A timescale for the implementation of hard landscaping works;

- vi) Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fail or become diseased within the first five years from completion; and
- vii) Details of protective measures for retained trees.

The measures within the LEMP must be implemented in accordance with the approved details.

**Reason:** *In the interests of the visual appearance and biodiversity of the area in accordance with the Kirklees Local Plan policies LP30, 31, 32 and 33. This is to secure the correct implementation of the measures identified in the Environmental Statement.*

## **5. CODE OF CONSTRUCTION PRACTICE**

- a) No stage of the development (including preliminary works) is to commence until a Code of Construction Practice (CoCP) Part B for that stage, including the relevant plans and programmes referred to in (b) below (which incorporates the means to mitigate the construction impacts identified by the Environmental Statement), has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt this does not include approval for Part A of the CoCP (a general overview and framework of environmental principles and management practice to be applied to the scheme along with all construction-led mitigation identified in the Environmental Statement) which has been submitted as part of the Order.
- b) Part B of the CoCP (as defined in the Environmental Statement: Volume 3, Appendix 2-1 Code of Construction Practice (Part A), Section 1.2.5) must include the following plans and programmes, for each stage as defined in condition 3:-
  - i) An external communications programme;
  - ii) A pollution prevention and incident control plan;
  - iii) A waste management plan;
  - iv) A materials management plan including a separate soils mitigation plan;
  - v) A nuisance management plan concerning dust, wheel wash measures, air pollution and temporary lighting;
  - vi) A noise and vibration management plan including a construction methodology assessment;

- vii) Details of the precise measures put in place to protect the Hillhouses listed coal chutes during the construction phase.
- viii) Details of the measures to be put in place to mitigate the impacts on the Huddersfield Town Centre Conservation Area during the construction phase at Huddersfield Station and Huddersfield Viaduct;
- ix) A demolition methodology statement for relevant buildings; and
- x) An Environmental Design Plan (EDP) (Land Contamination and Hydrogeology) setting out the environmental requirements during the detailed design stage.

The development must be implemented in accordance with the approved CoCP and the relevant plans or programmes unless otherwise agreed in writing with the local planning authority shall be implemented in full throughout the period of the works.

**Reason:** *To mitigate expected construction impacts arising from the development and to protect local and residential amenity and to ensure the development is carried out in accordance with Kirklees Local Plan policies LP51 and 52.*

## **6. CONSTRUCTION TRAFFIC MANAGEMENT & TRAVEL PLAN**

- a) No stage of the development (except preliminary works) is to commence until a Construction Traffic Management Plan ("CTMP") for that stage has been submitted to and approved in writing by the local planning authority for that stage. The CTMP must include:-
  - i) The package of interventions and mitigation outlined in Volume 2i, Chapter 23, Page 5, section 23.2.14 of the Environmental Statement including an implementation timetable for each stage;
  - ii) Specific details on arrangements for temporary car parking provision for train users as appropriate at each station including temporary parking at Huddersfield and Mirfield stations and mobility impaired set down/pick up points at Ravensthorpe and Deighton stations;
  - iii) A travel plan for construction staff, outlining the methods by which they shall be transported to the relevant sites and including the provision of non-motorised facilities to encourage walking and cycling; and
  - iv) Details on temporary diversions of both highways and rights of way required as part of the Scheme.

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- b) The construction of each stage of the development must be carried out in accordance with the approved CTMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To protect public amenity and highway safety and in accordance with Policy LP21 of the Kirklees Local Plan*

## **7. MATERIALS**

- a) Before the commencement of any works in respect of structures listed below, samples and specifications of all materials to be used on all external elevations of the following structures must be submitted to and approved in writing by the local planning authority:

- i) MVN2/204 Lees Hall Farm
- ii) MVL3/90 Westgate Road bridge
- iii) MVL3/98 Fieldhouse Bridge
- iv) MVL3/99 Ridings
- v) MVL3/100 Peels Pit
- vi) MVL3/101 Whitacre Street
- vii) MVL3/103 New Colliery Lane (Wheatley's) Bridge
- viii) MVL3/110 Parks
- ix) MVL3/107 New Colne Bridge Road Bridge
- x) MVN2/202 Calder Road
- xi) MDL1/9 Fall Lane (Thornhill Road)
- xii) Ravensthorpe Railway Station
- xiii) Deighton Station Forecourt, Lifts & Footbridge
- xiv) Mirfield Station Lifts & Footbridge
- xv) Baker Viaduct (Ravensthorpe)
- xvi) Weaving Lane Retaining Wall
- xvii) Station staircase access to be closed at Mirfield station
- xviii) Principal station signage at Huddersfield, Deighton, Mirfield and Ravensthorpe stations

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- b) The development must be constructed in accordance with the approved details and thereafter retained unless otherwise agreed in writing with the local planning authority.

**Reason:** *In the interests of visual amenity and in accordance with Policy 24 of the Kirklees Local Plan.*

## **8. ARCHAEOLOGY**

- a) No stage of the development (including preliminary works) in the areas listed below is to commence until a construction methodology has been submitted to and approved in writing by the local planning authority, in order to assist in identifying any likely impacts on areas of heritage interest. It shall then be agreed in writing with the local planning authority (in consultation with West Yorkshire Archaeology Advisory Service (WYAAS)) whether a written scheme of investigation is required to be submitted in relation to the following sites:
- i) The area of the former Union Dyeware Mills (HER PRN: 6671);
  - ii) The area of the former goods yard at Huddersfield Station (HER PRN: 6525);
  - iii) The area of the former Hillhouse Sidings (including the site of the White Stone Engine Shed) (HER PRN: 18375);
  - iv) The area including the pillbox at Woodend Road (HER PRN: 6588); and
  - v) The cropmark site to the south-west of Ravensthorpe Road (HER PRN: 642).
- b) No development (including preliminary works) is to commence within the areas of archaeological interest identified in Table 23-1 to Chapter 23 of Volume 2i of the Environmental Statement and/or in any areas that have been determined to require a written scheme of investigation in accordance with (a) above until a written scheme of investigation for such areas has been submitted to and approved in writing by the local planning authority.
- c) The approved scheme must identify areas where field work and/or a watching brief are required and the measures to be taken in order to protect, record or preserve any significant archaeological remains that may be found.
- d) Any archaeological field works or watching brief required by the approved scheme must be undertaken by a suitably qualified person or body approved by the local planning authority.

**Reason:** *To ensure that the significance of the historic environment is properly assessed and preserved and to ensure that the development is carried out in*

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*accordance with paragraphs 189 and 199 of the National Planning Policy Framework (2021), and policy LP35 of the Kirklees Local Plan.*

## **9. MEANS OF ENCLOSURE**

- a) No later than 6 months after the commencement of the individual stage of the development to which it relates details of all new permanent means of enclosure for the railway in that stage must be submitted to and approved in writing by the local planning authority.
- b) The approved means of enclosure must be erected in full in accordance with the approved details and retained thereafter unless otherwise agreed in writing with the local planning authority.

**Reason:** *In the interest of public safety and visual amenity in accordance with policy LP24 (e) of the Kirklees Local Plan.*

## **10. CONTAMINATED LAND**

In relation to contaminated land:

- a) Where the Environmental Statement (Volume 2i, Chapter 12: Geology, soils and land contamination) indicates that intrusive investigation is necessary for that stage, no development in the relevant stage is to commence until a Phase II Site Investigation Report for that stage has been submitted to, and approved in writing by, the Local Planning Authority.
- b) Where remediation measures are shown to be necessary in the Environmental Statement or the Phase II Reports undertaken pursuant to (a) above confirm remediation measures are necessary for the relevant stage, no development in the relevant stage is to commence until a Remediation Statement, demonstrating how the site will be made suitable for the intended use, has been submitted to and approved in writing by the local planning authority. The Remediation Statement must include a programme for all works and for the provision of and timescale for the submission to the local planning authority of Verification Reports for written approval.
- c) Remediation of the site shall be carried out and completed in accordance with the approved Remediation Statement. In the event that remediation is unable to proceed in accordance with the approved Remediation Statement, the local planning authority must be notified in writing immediately and where agreed as necessary, operations on the affected part of the site must cease. An amended or new Remediation Statement must be submitted to, and approved in writing by, the local planning authority prior to any further remediation works which must thereafter be carried out in accordance with the revised approved Statement.

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**Reason:** *To ensure that the presence of contamination is identified, risks assessed and proposed remediation works are agreed in order to make the site suitable for use.*

## **11. UNEXPECTED CONTAMINATED LAND**

Where significant\* unexpected contamination is encountered, the local planning authority must be notified in writing immediately and where agreed as necessary operations on the affected part of the site must cease. An amended or new Remediation Statement must be submitted to, and approved in writing by, the local planning authority prior to any further remediation works which must thereafter be carried out in accordance with the revised approved Statement.

*(\* significant within this context of this condition is taken to mean visual or olfactory evidence of contamination not previously encountered in the intrusive ground investigation.)*

**Reason:** *To ensure that the presence of unexpected contamination is identified, risks assessed and proposed remediation works are agreed in order to make the site suitable for use in accordance with Policy LP53 of Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.*

## **12. WESTGATE ROAD BRIDGE**

- a) No work in respect of the provision of anti-trespass works on structures as identified on planning direction drawing 151667-TSA-30-MVL3-DRG-T-LP-162000 Rev P01 relating to bridge MVL3/90 Westgate Road must commence until full details of the anti-trespass measures have been submitted to and approved in writing by the local planning authority.
- b) The development must be constructed in accordance with the approved details.

**Reason:** *To ensure the measures will not have a detrimental effect on significance of the Huddersfield Town Centre Conservation Area in accordance with Policies LP17, LP24 and LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.*

## **13. NOISE ATTENUATION**

Details of all permanent trackside noise attenuation measures identified in the Environmental Statement and on the relevant drawings, including a programme for implementation, must be submitted to and agreed in writing by the local planning authority before installation of the tracks. The noise attenuation measures must be installed in accordance with the approved details and retained thereafter.

**Reason:** *In the interests of residential amenity in accordance with Policy LP24 of Kirklees Local Plan.*



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#### **14. RAVENSTHORPE STATIC FREQUENCY CONVERTER SITE**

- a) Details of the design of the Static Frequency Converter Site and wider Ravensthorpe Triangle (including Thornhill Quarry and Coal Wharf) as identified on planning direction drawings 151667-TSA-35-MDL1-DRG-T-LP-162949 Rev P02, 151667-TSA-W3-000-DRG-T-LP-162951 Rev P03 and 151667-TSA-35-MDL1-DRG-T-LP-162891 Rev P02 must be submitted to and approved in writing by the local planning authority before work on the structure commences.

The details must include the following:

- i) Details of restoration/mitigation of any ecological impacts within the site;
  - ii) A plan of ecological mitigation details including areas of new plantings and details of any habitats created or enhanced;
  - iii) Implementation timetable and a programme for initial aftercare, long-term management and maintenance responsibilities for a period of five years post-completion;
  - iv) Details of any proposed hard/soft landscaping scheme including measures for visual screening; and
  - v) Full design details associated with the compensatory floodplain storage area.
- b) The development must be constructed in accordance with the approved details and all hard and soft landscaping and visual screening measures shall be retained thereafter unless otherwise agreed in writing with the local planning authority.

**Reason:** *In the interests of visual amenity and biodiversity in accordance with Local Plan policies LP24, LP30, LP31, LP32 and LP33 of Kirklees Local Plan.*

#### **15. HILLHOUSES YARD**

Details of the design of the structures at Hillhouses Yard, as listed below and identified on planning direction drawings 151667-TSA-31-MVL3-DRG-T-LP-162863 Rev P02, 162864 Rev P02 and 162865 Rev P02, must be submitted to and approved in writing by the Local Planning Authority before work on the structures commences.

- a) The detailed design submitted must include the following:
- i) Fencing around the whole compound;
  - ii) Vehicle Restraint Measures;

- iii) Noise Attenuation Measures alongside the rear gardens of Hammond Street;
  - iv) The compound site offices and storage areas;
  - v) Retaining Wall below Hammond Street and in the Yard;
  - vi) The temporary station platform and immediate treatment of the land following its clearance once no longer required; and
  - vii) Re-located existing Railway Telecommunications (GSM-R) Mast within the yard.
- b) The development must be constructed in accordance with the approved details and within a timeframe to be agreed with the Local Planning Authority.

**Reason:** *In the interests of visual and residential amenity in accordance with LP24 and LP51 of Kirklees Local Plan.*

## **16. WASTE DRAINAGE**

No Development (including preliminary works) must commence in respect of the re-located tea rooms on Huddersfield Station until a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dishwashing areas located within Huddersfield station has been submitted to and approved in writing by the local planning authority. The approved scheme must be implemented prior to first operation of the development in respect of the re-located tea rooms at Huddersfield station and shall be retained thereafter.

**Reason:** *To prevent fats, oils, and grease entering the drainage network in the interests of environmental wellbeing and in accordance with Local Plan policy LP28.*

## **17. NEW MAINTENANCE ACCESS**

No development (including preliminary works) in respect of the maintenance access roads to be provided and identified on planning direction drawings 151667-TSA-W3-000-DRG-T-LP-16294 Rev P02 (Wood Lane, Mirfield) and 151667-TSA-W3-000-DRG-T-LP-162939 Rev P02 (Colne Bridge Road, Bradley) must commence until the details of such maintenance access roads have been submitted to and approved in writing by the local planning authority. Thereafter such maintenance access roads shall be provided in accordance with the approved details and retained thereafter.

**Reason:** *In the interests of highway safety and in accordance with Local Plan policy LP21.*

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### **18. POWER SUPPLY UNIT**

No development (including preliminary works) in respect of the power supply unit identified on planning direction drawings 151667-TSA-W3-000-DRG-T-LP-162939 Rev P02 and 151667-TSA-W3-000-DRG-T-LP-163405 Rev P01 to be provided at Colne Bridge Road must commence until details of the power supply unit have been submitted to and approved in writing by the Local Planning Authority. The power supply unit must be constructed in accordance with the approved details and retained thereafter.

**Reason:** *In the interests of visual amenity in accordance with Local Plan Policy LP24.*

### **19. BIODIVERSITY NET GAIN**

No development (excluding preliminary works) is to be commence until a strategy to achieve an overall 10% net gain in biodiversity for the development, including monitoring, maintenance, management and reporting arrangements, has been submitted and approved in writing by the local planning authority. From the first revenue-generating train service coming into operation on the Order scheme measures to achieve an overall 10% net gain in biodiversity for the development (assessed in accordance with the 2019 Department for Environment, Food & Rural Affairs biodiversity metric) shall be implemented in accordance with the approved strategy.

**Reason:** *To ensure that the development does not adversely affect the natural wildlife and ecology of the area, including protected species, and secures a net gain in biodiversity in accordance with Kirklees Local Plan policy LP30.*

### **20. MDL1/6 & MDL1/8 (EXISTING BRIDGES AT RAVENSTHORPE)**

Within six months of the discontinuance of public train services over that part of the existing railway network running over the Calder and Hebble Navigation Underbridge (MDL1/6) and the River Calder Underbridge MDL1/8, details relating to the following measures must be submitted to and approved in writing by the local planning authority:

- a) Measures to secure such bridges from unlawful access;
- b) The inspection regime to be adopted for such bridges;
- c) Immediate maintenance measures arising for such bridges;
- d) Historic recording of the bridges to level 1 and the required timescale for such recording; and
- e) A programme for the implementation of these measures.

The above measures shall subsequently be implemented in accordance with the approved details and programme.

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**Reason:** *to ensure the proper and proportionate care of the listed structures once they cease to be operational in accordance with Policy LP35 of the Kirklees Local Plan.*

**21. APPROVAL AND IMPLEMENTATION UNDER THESE CONDITIONS**

Where under any condition the local planning authority may approve amendments to details submitted and approved, such approval must not be given except in relation to changes where it has been demonstrated to the local planning authority that the approval sought is unlikely to give rise to any materially new or materially different adverse environmental effects from those assessed in the Environmental Statement.

**Reason;** *To provide for certainty in the approvals and implementation process and in the interests of proper planning.*

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## **APPENDIX E: SUGGESTED CONDITIONS FOR LISTED BUILDING CONSENTS**

### **PART 1: LBC1 - Huddersfield Railway Station – Application Reference 2021/91328**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Huddersfield Station Materials)** Before the works hereby approved commence, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations, roofs and subways of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**3. (Huddersfield Station Recording)** No works of demolition shall take place until an approved methodology for full structure recording has been approved in writing with the local planning authority. Subsequent recording to the appropriate level (as recommended by Historic England) will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology. The following structures are the subject of this condition:

- i) The entire Huddersfield Station Roof (level 3); and
- ii) Huddersfield Station Tea Rooms (level 2).

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Platform Furniture Huddersfield Station)** Details of new platform fixtures and fittings, including close circuit television, public address system, customer information screens, waiting shelters, lighting, weather screens, station signage and platform surfacing, shall be submitted to and agreed in writing with the local planning authority. The proposed works shall be carried out in accordance with these approved details unless otherwise agreed in writing by the local planning authority.

**Reason:** *To control the introduction of modern features onto the historic environment in an appropriate and sympathetic manner.*

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**5. (Conservation Implementation Management Plan – Huddersfield Station Environs)**

No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) for Huddersfield Station has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) repairs and strengthening to the existing fabric of the trainshed roof at Huddersfield Station;
- iii) the deconstruction, storage and reconstruction of the Tea Rooms at Huddersfield Station;
- iv) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse;
- v) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
- vi) details of the maintenance access regime with particular reference to the roofs;
- vii) dissemination of “toolbox talks” to personnel involved in demolition and construction works;
- viii) provision of heritage interpretation boards during construction works;
- ix) the exact affixing details of overhead line electrification; and
- x) an overarching design guide covering both Huddersfield Station and Huddersfield Viaduct.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

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## **SCHEDULE 1: Approved Plans**

### **Huddersfield Station - General**

151667-TSA-30-MVL3-DRG-T-LP-166000 Rev P01 Key Plan Proposed Development

151667-TSA-30-MVL3-DRG-T-LP-166001 Rev P01 Existing and Proposed Roof Plan

151667-TSA-30-MVL3-DRG-T-LP-166002 Rev P01 Existing and Proposed Platform Level GA

151667-TSA-30-MVL3-DRG-T-LP-166003 Rev P01 Existing and Proposed Long Elevations (A-A)

151667-TSA-30-MVL3-DRG-T-LP-166004 Rev P01 Existing and Proposed Short Sections (A-A)

151667-TSA-30-MVL3-DRG-T-LP-166007 Rev P01 Existing and Proposed Long Elevations (B-B)

151667-TSA-30-MVL3-DRG-T-LP-166008 Rev P01 Existing and Proposed Sections (B-B)

### **Huddersfield Station - Retained Roof**

151667-TSA-30-MVL3-DRG-T-LP-166045 Rev P01 Roof A Structural Plan (Roof Level)

151667-TSA-30-MVL3-DRG-T-LP-166046 Rev P01 Roof A Structural Plan (Platform Level)

151667-TSA-30-MVL3-DRG-T-LP-166047 Rev P01 Roof A Structural Sections Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166048 Rev P01 Roof A Structural Sections Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166049 Rev P01 Roof A Strengthening Details

151667-TSA-30-MVL3-DRG-T-LP-166050 Rev P01 Roof A Proposed Coverings Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166051 Rev P01 Roof A Proposed Coverings Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166052 Rev P01 Existing Roof A Proposed Coverings Sheet (3)

151667-TSA-30-MVL3-DRG-T-LP-166053 Rev P01 Existing Roof A Proposed Roof

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## Coverings Details

151667-TSA-30-MVL3-DRG-T-LP-166056 Rev P01 Roof A OLE Support Details  
151667-TSA-30-MVL3-DRG-T-LP-166057 Rev P01 Roof A Bracing Details

### **Huddersfield Station - New Roof**

151667-TSA-30-MVL3-DRG-T-LP-166072 Rev P01 Existing Roof B & C Structural  
Plan (Roof Level)

151667-TSA-30-MVL3-DRG-T-LP-166073 Rev P01 Existing Roof B & C Structural  
Plan (Platform Level)

151667-TSA-30-MVL3-DRG-T-LP-166074 Rev P01 Existing Roof B & C Structural  
Sections Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166075 Rev P01 Existing Roof B & C Structural  
Sections Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166076 Rev P01 Proposed New Roof Plan

151667-TSA-30-MVL3-DRG-T-LP-166077 Rev P01 New Roof (Former Roof B & C)  
Structural Plan (Roof Level)

151667-TSA-30-MVL3-DRG-T-LP-166078 Rev P01 New Roof (Former Roof B & C)  
Structural Plan (Platform Level)

151667-TSA-30-MVL3-DRG-T-LP-166079 Rev P01 New Roof (Former Roof B & C)  
Structural Sections Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166080 Rev P01 New Roof (Former Roof B & C)  
Structural Sections Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166081 Rev P01 New Roof (Former Roof B & C)  
Structural Sections Sheet (3)

151667-TSA-30-MVL3-DRG-T-LP-166082 Rev P01 Proposed New Roof Covering  
Plan Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166083 Rev P01 Proposed New Roof Covering  
Plan Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166084 Rev P01 Proposed New Roof Details  
Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166085 Rev P01 Proposed New Roof Details  
Sheet (2)



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## **Huddersfield Station - Platforms**

151667-TSA-30-MVL3-DRG-T-LP-166184 Rev P01 Existing and Proposed Platforms Plan and Section

151667-TSA-30-MVL3-DRG-T-LP-166185 Rev P01 Proposed Platforms Plan and Section Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166186 Rev P01 Proposed Platforms Plan and Section Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166187 Rev P01 Proposed Platforms Plan and Section Sheet (3)

## **Huddersfield Station - Passenger Subway (MVL3/91)**

151667-TSA-30-MVL3-DRG-T-LP-166145 Rev P01 Passenger Subway Existing and Proposed Plan

151667-TSA-30-MVL3-DRG-T-LP-166146 Rev P01 Passenger Subway Existing and Proposed Sections

151667-TSA-30-MVL3-DRG-T-LP-166151 Rev P01 Proposed Passenger Subway Extension Proposed Finishes Plan

151667-TSA-30-MVL3-DRG-T-LP-166152 Rev P01 Subway Proposed GA Finishes Elevations

## **Huddersfield Station - Parcel Subway (MVL3/91A)**

151667-TSA-30-MVL3-DRG-T-LP-166166 Rev P01 Parcel Subway MVL3/91A Existing and Proposed Plan

151667-TSA-30-MVL3-DRG-T-LP-166167 Rev P01 Parcel Subway MVL3/91A Existing and Proposed Sections

## **Huddersfield Station - Tea Rooms**

151667-TSA-30-MVL3-DRG-T-LP-166021 Rev P01 Existing and Proposed Locations

151667-TSA-30-MVL3-DRG-T-LP-166022 Rev P01 Existing Plan and Elevations

151667-TSA-30-MVL3-DRG-T-LP-166023 Rev P01 Existing and Proposed Roof Plan

151667-TSA-30-MVL3-DRG-T-LP-166024 Rev P01 Existing Section and Details

151667-TSA-30-MVL3-DRG-T-LP-166025 Rev P01 Proposed Floor Plan and Elevations

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151667-TSA-30-MVL3-DRG-T-LP-166026 Rev P01 Proposed Section and Details

151667-TSA-30-MVL3-DRG-T-LP-166027 Rev P01 Proposed Fire Upgrades

151667-TSA-30-MVL3-DRG-T-LP-166028 Rev P01 Proposed Colour Scheme

151667-TSA-30-MVL3-DRG-T-LP-166029 Rev P01 Foundations

### **Huddersfield Station - Platform Canopies**

151667-TSA-30-MVL3-DRG-T-LP-166099 Rev P01 Proposed Platform Canopies  
Platform Level Plan

151667-TSA-30-MVL3-DRG-T-LP-166100 Rev P01 Proposed Platform Canopies  
Structural Plan (Roof Level)

151667-TSA-30-MVL3-DRG-T-LP-166101 Rev P01 Proposed Platform Canopies  
Structural Plan (Platform Level)

151667-TSA-30-MVL3-DRG-T-LP-166102 Rev P01 Proposed Platform Canopies  
Structural Sections Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166103 Rev P01 Proposed Platform Canopies  
Structural Sections Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-166104 Rev P01 Proposed Platform Canopies  
Canopy Level Plan

151667-TSA-30-MVL3-DRG-T-LP-166105 Rev P01 Proposed Platform Canopies  
Sections

151667-TSA-30-MVL3-DRG-T-LP-166106 Rev P01 Platform Canopies Canopy 1  
Elevations

151667-TSA-30-MVL3-DRG-T-LP-166107 Rev P01 Platform Canopies Canopy 2  
Elevations

151667-TSA-30-MVL3-DRG-T-LP-166108 Rev P01 Proposed Penistone Line Canopy  
Platform Level Plan

151667-TSA-30-MVL3-DRG-T-LP-166109 Rev P01 Penistone Line Canopy  
Structural Plan (Roof Level)

151667-TSA-30-MVL3-DRG-T-LP-166110 Rev P01 Penistone Line Canopy  
Structural Plan (Platform Level)

151667-TSA-30-MVL3-DRG-T-LP-166111 Rev P01 Penistone Line Canopy  
Structural Sections

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151667-TSA-30-MVL3-DRG-T-LP-166113 Rev P01 Proposed Penistone Line  
Canopy, Canopy Level Plan

151667-TSA-30-MVL3-DRG-T-LP-166114 Rev P01 Proposed Penistone Line Canopy  
Details

151667-TSA-30-MVL3-DRG-T-LP-166115 Rev P01 Proposed Penistone Line Canopy  
Elevations

### **Huddersfield Station – Footbridge (MVL3/91AA)**

151667-TSA-30-MVL3-DRG-T-LP-166123 Rev P01 Footbridge Proposed GA  
Platform Level

151667-TSA-30-MVL3-DRG-T-LP-166124 Rev P01 Footbridge Proposed GA Deck  
Level

151667-TSA-30-MVL3-DRG-T-LP-166125 Rev P01 Footbridge Proposed GA Roof  
Level

151667-TSA-30-MVL3-DRG-T-LP-166126 Rev P01 Footbridge Proposed Elevations

151667-TSA-30-MVL3-DRG-T-LP-166127 Rev P01 Footbridge Proposed Sections

151667-TSA-30-MVL3-DRG-T-LP-166128 Rev P01 Footbridge Proposed Details  
Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-166129 Rev P01 Footbridge Proposed Details  
Sheet (2)

151667-TSA-W3-000-DRG-T-LP-162970 OLE Rev P01 Structures Typical Details

### **PART 2: LBC2 - Huddersfield Railway Viaduct (MVL3/92) – Application Reference 2021/ 91329**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Huddersfield Viaduct Materials)** Before the works hereby approved commence, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent*

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*with Policy LP35 of the Kirklees Local Plan.*

**3. (Huddersfield Viaduct Recording)** No works of demolition shall take place until a methodology for full structure recording has been approved in writing with the local planning authority. The subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology. The following structures are the subject of this condition:

- i) Huddersfield Viaduct Spans 1, and 29 (level 2); span 4 (level 1); and
- ii) A recording undertaken to Level 1 of the sections of the parapet of the viaduct which are proposed to be altered to accommodate the attachment of OLE and its setting, including a photographic record.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Conservation Implementation Management Plan)** No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
- iii) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
- iv) exact affixing details of overhead line electrification;
- v) details of any maintenance access regime if required;
- vi) provision of heritage interpretation boards during construction works;
- vii) dissemination of "toolbox talks" to personnel involved in demolition and construction works; and
- vii) an overarching design guide covering both Huddersfield Station and Huddersfield Viaduct.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

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**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

## **SCHEDULE 2: Approved Plans**

151667-TSA-30-MVL3-DRG-T-LP-163100 Rev P02 Existing and Proposed Plan Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-163101 Rev P02 Existing and Proposed Plan Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-163102 Rev P02 Existing and Proposed Plan Sheet (3)

151667-TSA-30-MVL3-DRG-T-LP-163103 Rev P02 Existing and Proposed Plan Sheet (4)

151667-TSA-30-MVL3-DRG-T-LP-163104 Rev P02 Existing and Proposed Plan Sheet (5)

151667-TSA-30-MVL3-DRG-T-LP-163105 Rev P01 Existing and Proposed East Elevation Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-163106 Rev P01 Existing and Proposed East Elevation Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-163107 Rev P01 Existing and Proposed East Elevation Sheet (3)

151667-TSA-30-MVL3-DRG-T-LP-163108 Rev P01 Existing and Proposed East Elevation Sheet (4)

151667-TSA-30-MVL3-DRG-T-LP-163109 Rev P01 Existing and Proposed East Elevation Sheet (5)

151667-TSA-30-MVL3-DRG-T-LP-163110 Rev P02 Existing and Proposed West Elevation Sheet (1)

151667-TSA-30-MVL3-DRG-T-LP-163111 Rev P01 Existing and Proposed West Elevation Sheet (2)

151667-TSA-30-MVL3-DRG-T-LP-163112 Rev P01 Existing and Proposed West Elevation Sheet (3)

151667-TSA-30-MVL3-DRG-T-LP-163113 Rev P01 Existing and Proposed West Elevation Sheet (4)

151667-TSA-30-MVL3-DRG-T-LP-163114 Rev P01 Existing and Proposed West Elevation Sheet (5)

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151667-TSA-30-MVL3-DRG-T-LP-163115 Rev P01 Cross Sections with Proposed OLE

151667-TSA-30-MVL3-DRG-T-LP-163118 Rev P01 Typical Arch Repair Details

151667-TSA-30-MVL3-DRG-T-LP-163119 Rev P01 Signal Gantry Cross Sections and OLE Portal Connection Details

**PART 3: LBC3: Wheatley's Colliery Overbridge (MVL3/103)- Application Reference 2021/91337**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Historic Structures Recording)** No works of demolition shall take place until a methodology for full structure recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**3. (Conservation Implementation Management Plan)** No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
- iii) details of any maintenance access regime required (if any);
- iv) provision of heritage interpretation boards during construction works and permanent interpretation material following completion; and
- v) dissemination of "toolbox talks" to personnel involved in demolition and construction works.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

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**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

### **SCHEDULE 3: Approved Plans**

151667-TSA-32-MVL3-DRG-T-LP-163300 Rev P01 Existing and Proposed Plan Sheet (1)

151667-TSA-32-MVL3-DRG-T-LP-163301 Rev P01 Existing & Proposed Elevation Sections Sheet (2)

### **PART4: LBC4 – Colne Bridge Road Overbridge (MVL3/107)- Application Reference 2021/91330**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Historic Structures Recording)** No works of demolition shall take place until an approved methodology for full structure recording including the appropriate level of recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**3. (Conservation Implementation Management Plan)** No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
- iii) details of any maintenance access regime required (if any);
- iv) provision of heritage interpretation boards during construction works; and
- v) dissemination of “toolbox talks” to personnel involved in demolition and construction works.

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The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**4. (Materials)** Before the commencement of any works in respect of bridge MVL3/107 samples and specifications of all materials to be used on all external elevations must be submitted to and approved in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment.*

#### **SCHEDULE 4: Approved Plans**

151667-TSA-33-MVL3-DRG-T-LP-163400 Rev P02 Existing Plan Sheet (1)

151667-TSA-32-MVL3-DRG-T-LP-163401 Rev P02 Proposed Plan Sheet (2)

151667-TSA-32-MVL3-DRG-T-LP-163402 Rev P01 Existing & Proposed Elevation Sheet (3)

151667-TSA-32-MVL3-DRG-T-LP-163403 Rev P01 Existing & Proposed Elevation Sheet (4)

#### **PART 5: LBC5- Mirfield Viaduct (MVN2/192)- Application Reference 2021/91333**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Materials)** Before the works hereby approved commence, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**3. (Historic Structures Recording)** No works shall take place until a methodology for full structure recording including the appropriate level of recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to commencement of works and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology.



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**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Conservation Implementation Management Plan)** No works shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
- iii) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
- iv) exact affixing details of overhead line electrification;
- v) details of any maintenance access regime required (if any);
- vi) provision of heritage interpretation boards during construction works; and
- vii) dissemination of "toolbox talks" to personnel involved in demolition and construction works.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

#### **SCHEDULE 5: Approved Plans**

151667-TSA-34-MVN2-DRG-T-LP-163500 Rev P02 Existing & Proposed Plan Sheet (1)

151667-TSA-34-MVN2-DRG-T-LP-163501 Rev P01 Existing & Proposed Elevation Sheet (2)

151667-TSA-34-MVN2-DRG-T-LP-163502 Rev P02 Existing & Proposed Elevation Sheet (3)

151667-TSA-34-MVN2-DRG-T-LP-163503 Rev P02 Existing & Proposed Elevation Sheet (4)

151667-TSA-34-MVN2-DRG-T-LP-163504 Rev P02 Existing & Proposed Elevation

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Sheet (5)

151667-TSA-34-MVN2-DRG-T-LP-163505 Rev P02 Existing & Proposed Elevation Sheet (6)

151667-TSA-34-MVN2-DRG-T-LP-163506 Rev P02 Existing & Proposed Elevation Sheet (7)

151667-TSA-34-MVN2-DRG-T-LP-163507 Rev P02 Existing & Proposed Section Sheet (8)

**PART 6: LBC6 – Calder (Wheatley’s) Underbridge (MVN2/196) – Application Reference 2021/91344**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Materials)** Before the works hereby approved commence, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**3. (Historic Structures Recording)** No works of demolition shall take place until a methodology for full structure recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Conservation Implementation Management Plan)** No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;

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- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
  - iii) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
  - iv) exact affixing details of overhead line electrification;
  - v) details of any maintenance access regime required (if any);
  - vi) provision of heritage interpretation boards during construction works; and
  - vii) dissemination of "toolbox talks" to personnel involved in demolition and construction works.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

#### **SCHEDULE 6: Approved Plans**

151667-TSA-34-MVN2-DRG-T-LP-163600 Rev P02 Existing & Proposed Plan Sheet (1)

151667-TSA-34-MVN2-DRG-T-LP-163601 Rev P01 Existing & Proposed Elevation Sheet (2)

151667-TSA-34-MVN2-DRG-T-LP-163602 Rev P01 Existing & Proposed Elevation Sheet (3)

151667-TSA-34-MVN2-DRG-T-LP-163603 Rev P01 Existing & Proposed Elevation Sheet (4)

151667-TSA-34-MVN2-DRG-T-LP-163604 Rev P01 Existing & Proposed Elevation Sheet (5)

151667-TSA-34-MVN2-DRG-T-LP-163605 Rev P01 Existing & Proposed Section Sheet (6)

#### **PART 7: LBC7 - Occupation Underbridge (MDL1/10)- Application Reference 2021/91334**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

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**2. (Materials)** Before the works hereby approved commence, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**3. (Historic Structures Recording)** No works shall take place until a methodology for full structure recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Conservation Implementation Management Plan)** No works shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
- iii) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
- iv) details of any maintenance access regime required (if any);
- v) provision of heritage interpretation boards during construction works; and
- vi) dissemination of "toolbox talks" to personnel involved in demolition and construction works.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

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## **SCHEDULE 7: Approved Plans**

151667-TSA-35-MVN2-DRG-T-LP-163800 Rev P02 Existing & Proposed Plan Sheet (1)

151667-TSA-35-MVN2-DRG-T-LP-163801 Rev P02 Existing & Proposed Elevation Sheet (2)

151667-TSA-35-MVN2-DRG-T-LP-163802 Rev P02 Existing & Proposed Elevation Sheet (3)

151667-TSA-35-MVN2-DRG-T-LP-163803 Rev P01 Existing & Proposed Section Sheet (4)

## **PART 8: LBC8 – Toad Holes Underbridge (MDL1/12) – Application Reference 2021/91335**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Materials)** Before the works hereby approved commence, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**3. (Historic Structures Recording)** No works of demolition shall take place until a methodology for full structure recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed in the approved methodology.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Conservation Implementation Management Plan)** No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

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- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
  - ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
  - iii) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
  - iv) details of any maintenance access regime required (if any);
  - v) provision of heritage interpretation boards during construction works; and
  - vi) dissemination of "toolbox talks" to personnel involved in demolition and construction works.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

#### **SCHEDULE 8: Approved Plans**

151667-TSA-35-MVN2-DRG-T-LP-163900 Rev P02 Existing & Proposed Plan Sheet (1)

151667-TSA-35-MVN2-DRG-T-LP-163901 Rev P02 Existing & Proposed Elevation Sheet (2)

151667-TSA-35-MVN2-DRG-T-LP-163902 Rev P01 Existing & Proposed Section Sheet (4)

#### **PART 9: LBC9 – Ming Hill Underbridge (MDL1/14) – Application Reference 2021/91336**

**1. (Time Limit)** The works must be begun not later than the expiration of five years beginning with the date of this permission.

**Reason:** *To set a reasonable time limit for the commencement of the works.*

**2. (Materials)** Before the works hereby approved commences, or within a timescale to be otherwise agreed in writing by the local planning authority, samples and specifications of all materials to be used on all external elevations of the works shall be submitted to and approved in writing by the local planning authority. The works shall be constructed only using the approved materials unless otherwise agreed in writing by the local planning authority.

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**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

**3. (Historic Structures Recording)** No works of demolition shall take place until a methodology for full structure recording has been approved in writing with the local planning authority. Subsequent recording will take place prior to demolition and be deposited with the West Yorkshire Archive Service and West Yorkshire Historic Environment Record in accordance with the timescales agreed as part of the approved methodology.

**Reason:** *In recognition of the architectural and historic significance of the Listed Building and in accordance with Chapter 16 of the NPPF.*

**4. (Conservation Implementation Management Plan)** No works including any works of demolition shall commence until a Conservation Implementation Management Plan (CIMP) has been submitted to and approved in writing by the local planning authority. The approved CIMP will include as a minimum requirement contents based on the model template CIMP structure attached to this list of conditions. The CIMP will specifically include methodologies for:

- i) fabric removal, masonry repairs, vegetation removal, repointing, metalwork repairs and application of protective paint systems as appropriate;
- ii) the identification of historic elements of the fabric which once removed may be reused or preserved, and a strategy for their storage or reuse where appropriate;
- iii) any improvements to the setting to sustain, enhance and better reveal the heritage asset affected;
- iv) details of any maintenance access regime required (if any);
- v) provision of heritage interpretation boards during construction works; and
- vi) dissemination of "toolbox talks" to personnel involved in demolition and construction works.

The works must be carried out in accordance with the approved CIMP unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the conservation of the historic environment and be consistent with Policy LP35 of the Kirklees Local Plan.*

## **SCHEDULE 9: Approved Plans**

151667-TSA-35-MVN2-DRG-T-LP-163920 Rev P04 Existing & Proposed Plan Sheet (1)

151667-TSA-35-MVN2-DRG-T-LP-163921 Rev P02 Existing & Proposed Elevation Sheet (2)

151667-TSA-35-MVN2-DRG-T-LP-163922 Rev P01 Existing & Proposed Section Sheet (4)

*End of Conditions*

## **ANNEX TO APPENDIX E: PROPOSED OUTLINE OF CONSERVATION IMPLEMENTATION MANAGEMENT PLANS**

<b>CIMP – proposed contents:</b>	<b>Details:</b>
<p>1. Introduction</p> <p>(a) Overview</p> <p>(b) Purpose of the Document</p> <p>(c) Consultation Process</p> <p>(d) Other Supporting Information [<i>TBC dependant on structure</i>]</p>	<p>Aims to provide succinct introduction to the document, including placing it in the context of ongoing consultation processes (with Kirklees Council and/or Historic England as applicable)</p> <p>The Other Supporting Information section will outline those other documents alongside which the CIMP should be read (e.g. the Design Guide for Huddersfield Station, WSIs for Building Recording etc.)</p>
<p>2. Strategic Overview</p> <ul style="list-style-type: none"> <li>Strategic overview of the CIMP in relation to the wider TRU scheme</li> </ul>	<p>Inclusion in each CIMP of a strategic overview of the particular works in the wider context of TRU, Group value of the asset and the overall TransPennine Route Upgrade</p>
<p>3. Understanding the Site</p> <p>(a) Heritage Context Overview: History of the TransPennine Route</p> <p>(b) Historic Development of [<i>Structure</i>]</p> <p>(c) Heritage Context: Other Designated</p>	<p>A succinct overview of the heritage context and significance of the assets affected by the proposed works covered by the particular CIMP. This will draw on pre-existing accepted sources, including the ES, Heritage Assessments, Statements of Significance etc. This aims to provide the context in which the methodologies which follow have been developed.</p>



<p>Heritage Assets [<i>TBC dependant on structure</i>] (d) Significance of Heritage Assets: [<i>Structure</i>] (e) Significance of Other Designated Heritage Assets [<i>TBC dependant on structures</i>]</p>	<p>This section will also include opportunity for identification of any associated heritage assets which will also be affected by the proposals, for example consideration of the Huddersfield Town Centre Conservation Area in the CIMPs concerning Huddersfield Station and Huddersfield Viaduct (MVL 3/92)</p>
<p>4. [<i>Structure</i>] - Methodologies</p> <ul style="list-style-type: none"> <li>• Summary</li> <li>(a) Historic Building Recording and Monitoring before and after works</li> <li>(b) Fabric removal</li> <li>(c) Introduction of new fabric</li> <li>(d) Repairs, vegetation removal, repointing</li> <li>(e) The identification of historically or architecturally significant elements of fabric which once removed may be reused or preserved, and a strategy for their storage or reuse [<i>TBC</i>]</li> <li>(f) Any improvements to the setting to sustain, enhance and better reveal the significance of the heritage assets affected</li> <li>(g) Any improvements to sustain the long-term conservation of</li> </ul>	<p>This section will form the bulk of the document and will outline the specific methodologies for the individual elements of work at the heritage assets concerned. These will be supported by appendices where appropriate (e.g. for additional information, supplementary documentation)</p> <p>Where appropriate, this section of the CIMP may be subdivided according to the Stages of development; this is particularly the case where structures will undergo the proposed works over a longer period of time, such as at Huddersfield Station. Similarly, for those structures such as Huddersfield Station where there are multiple interventions over multiple elements proposed, each methodology sub-section will be divided by area, so for example (a) Historic Building Recording and Monitoring will be split into the relevant methodologies for the principal Roof A, Roofs B and C, the Tea Rooms etc.</p> <p>This section of the CIMP, supported as necessary by the appendices, will provide the details of the approach to the works, and for the different relevant work areas will cover items including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Definition of the required standard of works and workmanship</li> <li>• Methodologies around storage of any temporarily-removed material (for example</li> </ul>

the heritage assets affected [TBC] <i>N.B. Those applicable to the asset</i>	<p>regarding the Tea Rooms at Huddersfield Station)</p> <ul style="list-style-type: none"> <li>• Construction methods and adopted techniques</li> <li>• Use of equipment</li> <li>• Specification of materials</li> <li>• Details of heritage interpretation</li> </ul>
5. Maintenance and management schedules to protect the long-term condition of the heritage assets affected	Agree any particular management needs and set out a timetable for regular inspection as part of NR's management of historic assets.
6. Implementation and Review of the CIMP (a) Implementation (b) Review	very succinct identification of how the document will be implemented (once approved) and any elements which will require further review (e.g. building recording etc.) and how the continual engagement and review of works with stakeholders will be planned.
<p>Appendices [<i>would include</i>]</p> <ul style="list-style-type: none"> <li>• Site Plan</li> <li>• Planning and Listed Building Consent conditions</li> <li>• Additional drawings and visualisations</li> <li>• Samples</li> <li>• Maintenance schedules</li> <li>• Specific method statements</li> <li>• Results of any intermediary surveys etc.</li> </ul> <p><i>N.B. Those applicable to the asset</i></p>	<p>Each CIMP would include various appendices to provide supplementary information, for example providing specific method statements around fabric removal, strengthening works or introduction of new elements.</p> <p>Each CIMP would also include as Appendices both the relevant Planning and Listed Building Consent conditions which seek to be fully or partially discharged through the contents of the CIMP</p>



Department  
for Transport

# Rail Network Enhancements Pipeline

## A New Approach for Rail Enhancements

Moving Britain Ahead



March 2018  
227

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# 1. Introduction

- 1.1 Government is taking a new approach to the way it enhances the railway. It is creating a rolling programme of investment that continues to focus on outcomes that deliver real benefits for passengers, freight users and the economy. This continuous approach to Enhancements builds on the progress already made and the process set out in the *Memorandum of Understanding between Department for Transport and Network Rail on Rail Enhancements*<sup>1</sup> and moves the investment in Enhancements away from a rigid five year cycle. This document sets out this new approach and illustrates the pipeline that it has created.
- 1.2 The first section describes the strategic context. This section also sets out the government's priorities for investment in rail Enhancements and the principles that it will apply when making these investments.
- 1.3 The second section describes the framework for investment and how Enhancements will enter and move through the pipeline. More detail of this framework is provided in the Annex.
- 1.4 The final section illustrates the kinds of schemes that will sit in each part of Rail Network Enhancements Pipeline (RNEP); showing how the Enhancements already planned and being delivered on the England and Wales rail network<sup>2</sup> might progress in the context of the new pipeline approach.

## What does the Rail Network Enhancements Pipeline cover?

- 1.5 This document sets out an approach that applies for rail Enhancements within England and Wales. This approach applies to "Enhancements" as investments in new or improved infrastructure that enable service changes and other benefits. These investments will enhance the capability of the railway, typically adding increased or new capacity or providing technical improvements to the way the railway runs.
- 1.6 The benefits of these infrastructure interventions are typically realised through the changes to train services that they enable, through the introduction of improved trains or revised timetables. These changes to passenger services are often made through the government's franchising programme. This approach requires alternatives to infrastructure Enhancements, such as timetable or rolling stock changes, to be considered in the early stages of development.
- 1.7 The RNEP is intended to provide information for all stakeholders about how government is progressing the rail Enhancements it funds. Enhancements that are promoted by third parties, should refer to the *Market-led proposals guidance*,

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<sup>1</sup> <https://www.gov.uk/government/publications/improving-the-delivery-of-railway-investments-mou-between-dft-and-network-rail>

<sup>2</sup> Transport Scotland and Scottish Ministers are responsible for Enhancements on the railway in Scotland.

published alongside this document,<sup>3</sup> which sets out the process by which third parties can engage with the Department and interact with the pipeline.

- 1.8 The RNEP does not cover the Operations, Maintenance and Renewals activities carried out by Network Rail to keep the existing railway running. It also does not cover either the High Speed 1 network, or the planned core High Speed 2 (HS2) network. The vital HS2 programme will provide huge benefits for the railway as it comes into service, from 2026. The creation and management of the pipeline will take account of the impacts that HS2 will have on the network and where there may be a need for further Enhancements to support it.

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691531/rail-market-led-proposals-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/691531/rail-market-led-proposals-guidance.pdf)

## 2. Strategic Context

- 2.1 Government has embarked on a record programme of modernisation to meet the extraordinary surge in rail demand since privatisation, with passenger journey numbers having more than doubled. Alongside the step change in funding for maintenance and renewals we are providing in 2019-2024, we have committed substantial investment in Enhancements to provide new capacity and improve journey times. We are investing to make today's railway safer and more reliable – but we also want the railway to offer new opportunities for citizens and businesses, and to unlock housing and economic growth. Our recently published strategic vision<sup>4</sup> set out our wider plans for the railway and our desire to work with partners and other transport modes to identify the best new rail projects which can deliver those opportunities, and unlock that growth.
- 2.2 Our intention is also for more Enhancements to be promoted, funded and/or financed by a range of parties, for example the Transforming Cities Fund, Local Enterprise Partnerships, Sub-national Transport Bodies, Local Authorities, Metropolitan Mayors, and the private sector. To meet our ambitions of a growing rail network built by and for a diverse range of stakeholders, it is ever-more important that government provides clarity and certainty over how projects are moved forward, and what railway users can expect.
- 2.3 A rail investment programme of this scale and complexity requires rigorous, transparent governance. Following the Bowe Review<sup>5</sup> into how best to deliver this, the Department for Transport and Network Rail entered into a Memorandum of Understanding<sup>6</sup> (MoU) that clarified their respective roles in enhancement planning and delivery, and how projects would be managed. The Bowe Review also recommended the pipeline approach government is now implementing: a rolling programme of investment, with clear options and decision points, to ensure that projects are progressed in defined stages, subject to a review of their readiness to move forward to the next stage, and the benefits they are on course to deliver for users and the taxpayer.

### Priorities for Enhancements

- 2.4 Our strategic vision set out how the railway can uniquely contribute to the government's wider objectives by providing good services for passengers and freight users, contributing to the economy and communities, and securing value for the

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<sup>4</sup> <https://www.gov.uk/government/publications/a-strategic-vision-for-rail>

<sup>5</sup> <https://www.gov.uk/government/publications/bowe-review-into-the-planning-of-network-rails-enhancements-programme-2014-to-2019>

<sup>6</sup> <https://www.gov.uk/government/publications/improving-the-delivery-of-railway-investments-mou-between-dft-and-network-rail>



taxpayer. Government has established four priorities for investment and action that contribute to achieving these goals.

- 2.5 To be included in the RNEP, Enhancements must provide outcomes that meet one or more of these following priorities and demonstrate clearly how they will continue to support them as they progress:

**Keeping people and goods moving smoothly and safely.**

Enhancements that meet this priority will provide outcomes that deal with the challenges faced by the existing network; enabling an acceptable level of reliability and performance for users. This may be, for example, by providing capacity to ease crowding on routes or at stations; or by enhancing safety by removing or mitigating potentially dangerous interactions on the network.

**Delivering the benefits from committed programmes and projects already underway.**

Enhancements that meet this priority will support outcomes that will allow the railway to make the best use of, and get good value for money from, other funded schemes and other government priorities. These might include rolling stock programmes, HS2, Crossrail, or other transport schemes. This may be, for example, by enhancing the power supply to allow for more services; providing new routes to support new infrastructure; or improving junctions to allow for greater traffic.

**Offering more: new and better journeys and opportunities for the future.**

Enhancements that meet this priority will support outcomes that drive new industrial, economic or housing growth. This may be, for example, by reopening old lines to support communities; expanding the network to support new towns and villages; connecting centres of employment and commerce; or creating new corridors for economic growth to rebalance the economy.

**Changing the way the rail sector works for the better.**

Enhancements that meet this priority will support outcomes that keep the railway modern and effective. This may be, for example, by supporting new technologies such as digital signalling or track monitoring; improving the sustainability of the network; promoting efficient, value for money, delivery of benefits; or by supporting new opportunities for the railway's staff.

## Principles for Investment

- 2.6 The nature of central government investment means that it will not be possible to select and fund all the schemes that could meet its priorities. This means that government must make decisions about which Enhancements it will take forward. It has established principles to support it in making those decisions about the RNEP.
- 2.7 In order to be considered for central government intervention and/or funding, the case for all Enhancement decisions will need to demonstrate:

- a. **A robust business case.** All of government's decisions will be guided by the appropriate evaluation and appraisal methodology, supported by five part, WebTAG<sup>7</sup> compliant business cases and guided by the *HM Treasury Green Book*.<sup>8</sup> This will include considerations of the value for money and affordability of the Enhancement itself, but also of the impact it will have on the value for money and affordability of the overall portfolio. This business case may demonstrate the other principles listed below.
- b. **A focus on the outcomes provided for railway users and the taxpayer.** All rail Enhancements must be led by the needs that they are fulfilling rather than the methods by which they propose to fulfil them. Government wishes to buy benefits for railway users at good value for the taxpayer. Enhancements will therefore need to set out clearly the outcomes that they will provide at each stage, have thoroughly assessed a range of options and explained why the proposal is the best way to achieve them. This should include identifying the support for the Enhancement from the communities it will serve, if appropriate. This will allow government to consider whether the Enhancement remains the best way of delivering those benefits as it moves through the pipeline. In some cases this may mean that the inputs or outputs may change and some Enhancements may be replaced with changes to services or rolling stock to achieve the same benefits.
- c. **The impact of the Enhancement on the existing network.** Delivering new Enhancements can be disruptive to the existing network, so government will consider these impacts in making decisions. In doing so, considerations about the safety impact of the Enhancement for our railways will be paramount. Government will also be mindful of the implications for and impacts on the reliability of the network and the provision of services that delivery of the Enhancement might have. This will include considering the strategic impacts on the deliverability of train services and the implications of any additional Operations, Maintenance and Renewals activity, including any impact on future franchise costs that the Enhancement will create.
- d. **Railway demand.** Government will always consider the implications for and impacts on railway demand when making decisions about rail Enhancements. This will be supported by robust methodology and will use the most appropriate models, including the government's Network Modelling Framework. Government will consider Enhancements that might help to meet existing demand, but also those that might help spread demand more evenly, or address areas of suppressed demand.
- e. **The balance of the portfolio.** All Enhancements will be considered in the context of the overall Enhancements portfolio rather than as purely standalone interventions. Government is seeking a balanced portfolio of Enhancements. Government will seek to achieve this balance in four key ways, by: addressing each of the government's priorities; considering the regional spread of Enhancements, making use of the Department for Transport's *Rebalancing Toolkit*<sup>9</sup> where appropriate; providing a deliverable portfolio of Enhancements; and ensuring a financially sustainable and affordable portfolio. It is important to note that this balance need not lead to an entirely equal spread across the portfolio in these areas. When government considers Enhancements, the

<sup>7</sup> <https://www.gov.uk/guidance/transport-analysis-guidance-webtag>

<sup>8</sup> <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/669043/supplementary-guidance-rebalancing-toolkit.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/669043/supplementary-guidance-rebalancing-toolkit.pdf)

needs, constraints and benefits of the wider portfolio will always take precedence over individual interventions. This means that even Enhancements that might deliver significant benefits may not be taken forward to the next stage because of the impact that they might have on the portfolio as a whole.

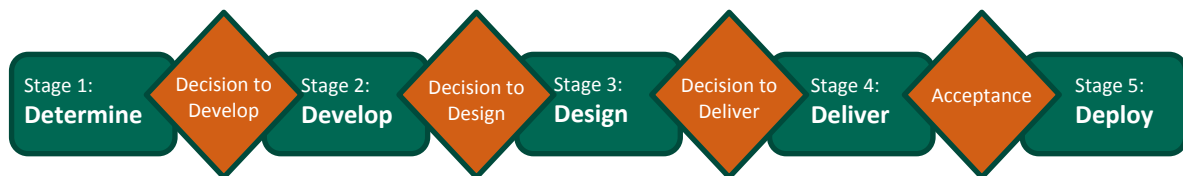
- f. **Opportunities for private investment.** Government wants to relieve the burden on taxpayers and farepayers by identifying and leveraging new funding sources in order to increase overall investment. Government will consider opportunities for alternative sources of funding and private finance options at each stage of the pipeline.
- g. **Increasing contestability.** Government is keen to encourage new partners for infrastructure development, design and delivery and encouraging and facilitating market-led proposals for rail Enhancements. Government will consider opportunities for alternative methods of delivery at each stage of the pipeline. Guidance on the development of market led proposals is being published alongside this document.

2.8 It is important to remember that each decision taken on each Enhancement relates only to whether it will progress to the next stage of the pipeline (the stages are set out in the next section). At no point will government make a decision that commits to progress any enhancement beyond the next stage of the pipeline.

2.9 The pipeline will also be kept under constant review. This means that even after a decision has been made to progress an enhancement to the next stage, developments elsewhere, within or outside the RNEP, may lead to changes to support the efficient delivery of the Enhancement and the portfolio. This approach will ensure that decision making about Enhancements is agile. Government will take account of affordability and the need to adjust the pipeline to reflect the changing nature of transport, technology and the economy and support the best outcomes for passengers, freight users and the taxpayer.

### 3. The Framework for Investment: Creating the Pipeline

- 3.1 The RNEP provides a rolling programme of investment, which will continue to provide a steady stream of benefits to the railway's customers and taxpayers. The approach is based around five stages of activity separated by formal investment decisions gateways. The first three stages, "Determine", "Develop" and "Design" are characterised by increasing levels of detail and understanding. The final two stages are, "Deliver" and "Deploy." By the time these latter stages are reached, all investment decisions have been taken and the focus is on building and operating the Enhancement and realising the benefits that are anticipated.
- 3.2 The decision taken at each gateway will be whether or not to proceed with the Enhancement. These decisions will be made jointly with the infrastructure manager, delivery agent and any other funders or infrastructure managers involved. Each of these investment decisions will be informed by the priorities and principles for investment set out in the previous section of this document and government will require increasing levels of detail to make the decision at each successive gateway. In the case of the first three investment decisions ("Decision to Develop," "Decision to Design," "Decision to Deliver") this will include the requirement of a suitable, government endorsed and WebTAG compliant business case.
- 3.3 It should be noted that these stages do not and need not directly align with the Governance for Railway Investment Projects (GRIP) stages used by Network Rail. However, some of the later stages will be informed by GRIP related activities.
- 3.4 The five stages and their decision points are shown below and more detail on each stage and investment decision is provided in the annex:



## Timing of Decisions

- 3.5 Enhancements may enter the pipeline at any stage. They will enter the pipeline at the most appropriate stage based on their level of development, provided that they have the appropriate government endorsed business case and have passed the decision point for that stage. This is particularly relevant for market-led proposals promoted by third parties, which, in accordance with the *Rail market-led proposals guidance* may be added to the RNEP if they require the intervention of government to progress. This might be because a market-led proposal now requires government support or guarantees to progress beyond initial development. The point at which a market-led proposal is added to the pipeline will be judged in consultation with the promoter and in line with the *Rail market-led proposals guidance* on a case-by-case basis.
- 3.6 Decisions about Enhancements entering and progressing through the pipeline may be taken at any time. Decision gateways may be reached by an Enhancement to the next stage once it has reached an appropriate level of maturity. This means that there is no “window” in which decisions are taken and there is no formal competition between Enhancements. Each Enhancement decision will be taken on its own merits within the context of the overall portfolio.

## 4. The Pipeline of Enhancements: Illustrative Examples

- 4.1 This government is investing record levels in rail infrastructure – in Enhancement works to upgrade the network, and in vital Operations, Maintenance and Renewals work to keep the network and those who use it moving.
- 4.2 The Enhancements government is currently committed to and investing in have progressed to different points of the five stage pipeline process. The following sections illustrate the kinds of Enhancements that are included in each stage.

### Determine

- 4.3 The nature of the Determine phase means that it contains all potential Enhancements that are being promoted but lack a government endorsed business case.
- 4.4 Government recognises the need to support the development of future Enhancements. Work is already taking place to improve journeys for passengers in Wales; to provide new journey opportunities between Oxford and Cambridge by exploring options to expand the (currently committed) Western Phase of East West Rail; and to explore options for improved connectivity in the Midlands through the creation of a Midlands Rail Hub.
- 4.5 As set out in our strategic vision, over the coming decade the government is committed to opportunities to expand the network and its focus in the Determine phase includes supporting opportunities to allow this. Some examples of proposals in the Determine phase currently being considered in this context include:
  - improving connectivity in the South West (reopening the routes previously closed to passengers under British Rail connecting Exeter to Okehampton and Bere Alston to Tavistock);
  - providing new journey opportunities to rail users in the North (through the provision of four new stations in the West Yorkshire area and exploring the merits of reopening the line between Skipton and Colne); and
  - opportunities around central Birmingham (being considered by Transport for the West Midlands).

## Develop

- 4.6 Government's focus in the Develop phase is on the outcomes being sought. Whether this is by improving capacity in the Ely area, or improving capacity and connectivity along the Transpennine Route between Manchester, Leeds and York. This focus allows government to concentrate on ensuring it takes forward things that make a real difference to rail users rather than on the specific infrastructure, rolling stock or technology interventions to achieve this.
- 4.7 The Transport Secretary recently announced that he intends to set aside up to £3billion of investment to provide improvements to journey times, capacity and reliability along the Transpennine Route, working with local authorities to discuss how the benefits of this significant investment can be maximised.
- 4.8 Working in partnership with local stakeholders, government has provided funding to undertake further work on a new station at Cambridge South, where one of the largest bio-medical campuses in Europe is being consolidated. Government is also continuing to work with Network Rail on developing plans for a Western rail access to Heathrow to improve connectivity to the airport.
- 4.9 This focus on developing a clear understanding of the relevant railway outputs, if necessary, to deliver the outcomes being sought is reflected in other interventions in the Develop phase including our commitment to improve connectivity and capacity in the Bristol area.

## Design

- 4.10 Government's focus in the Design phase is on defining the precise railway solutions required and the railway outputs required to achieve these. The nature of the outcomes government seeks means that multiple interventions may be required in the design phase to realise them. An example of this is in improving capacity along the East Coast Main Line where government is committed to introducing Intercity Express Trains along the route and introducing improved timetabling along the line.
- 4.11 In other instances, the intervention being designed can meet multiple government priorities. In the case of the government's commitment to provide passengers with new east to west journey opportunities in Southern England, the way in which the intervention is being designed (providing direct rail services between Oxford/ Aylesbury and Milton Keynes/ Bedford) means that it is allowing government to both meet its priorities of offering new and better journeys and opportunities for passengers, and changing the way the rail sector works for the better.

## Deliver

- 4.12 Government's focus in the Deliver stage is in ensuring that the works are completed to secure the intended benefits. This includes, for example, securing appropriate contractors and managing the impacts on the existing network.



- 4.13 This government is delivering record levels of investment in delivering infrastructure on the rail network that improves journeys for passengers. This includes delivering a new integrated rail link through central London from Reading and Heathrow through the Crossrail programme providing new, faster, improved journey; providing improved capacity along the West Anglia Main Line through power supply upgrades and track improvements; and increasing capacity into Waterloo by bringing the previous International Terminal back into passenger use and allowing longer trains to be introduced through platform extensions along key routes.

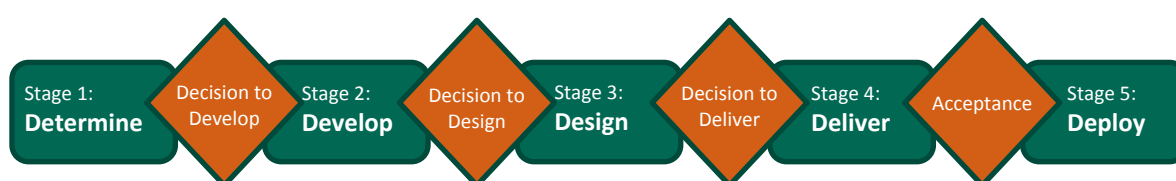
## Deploy

- 4.14 The purpose of government's investment in rail Enhancements is to provide improvements to rail services to rail users including passengers and freight.
- 4.15 Through the franchising process government is already taking advantage of its record levels of investment in the railway, providing the first new journey opportunities into London from Oxford for over 100 years through the initial stages of East West Rail and improved services as part of the initial stages of the Thameslink Programme.
- 4.16 Our new and improved infrastructure, supported by the introduction of improved trains has allowed us to improve journeys for passengers across the rail network. Through our recent franchises we have allowed the introduction of longer trains on Northern Rail, West Midlands, South West, Southern and Thameslink. New Intercity Express Programme (IEP) trains have begun to replace the ageing High Speed Train fleet, bringing improved services and additional capacity between London and major UK cities including Bristol, Leeds, Newcastle and Edinburgh. By 2021, there will be more than 5,500 new carriages on the network, with an average of 17 carriages being built every week between now and 2020.



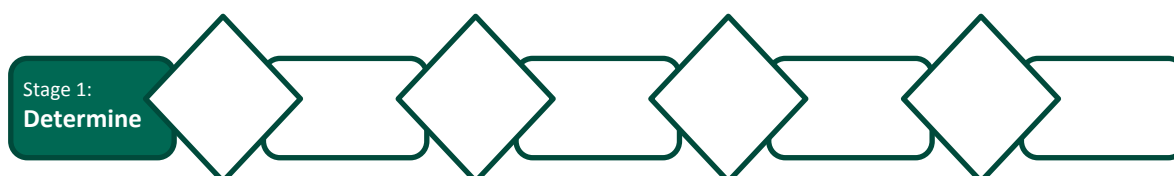
# Annex A: Details of the Framework

- A.1 The RNEP framework is made up of five stages: Determine, Develop, Design, Deliver, and Deploy. These are separated by formal decision points as shown in the diagram below. This annex provides more detail about each of these stages and decision points.



## Stage 1: Determine

### *Determine the opportunity*



### The Determine Stage

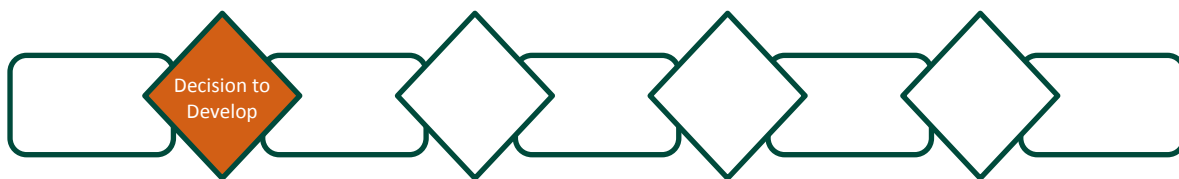
- A.2 The Determine stage is the first stage of the RNEP. The potential Enhancements within the Determine stage may have been identified by the industry's long term planning process or it may have arisen from renewals activity. Alternatively, the opportunity may have been identified through market-led proposals or from other central, local, sub-national, devolved governmental, or transport body initiatives. Enhancements in the Determine stage may require funding from their promoter in order to take them forward. The Enhancements in this stage do not yet have a government endorsed business case. In particular, the government will consider Enhancements put forward by Sub-national Transport Bodies as part of their strategic advice, within the Determine phase, recognising in particular Transport for the North's statutory role in the process.

### Focus of activity

- A.3 The focus of activity in this stage is establishing the case for an intervention. This means identifying both the outcomes sought for customers and considering a range

of potential interventions which could deliver these benefits. There are likely to be varied possibilities for achieving this and may include a range of infrastructure or operational interventions or a combination of the two. At this stage, work should focus on considering how an Enhancement could meet one or more of the government's priorities and whether it is worth progressing at this time. This naturally places the emphasis on establishing a strategic case. In doing so it will be important to consider how the range of potential interventions might meet the Principles for Investment.

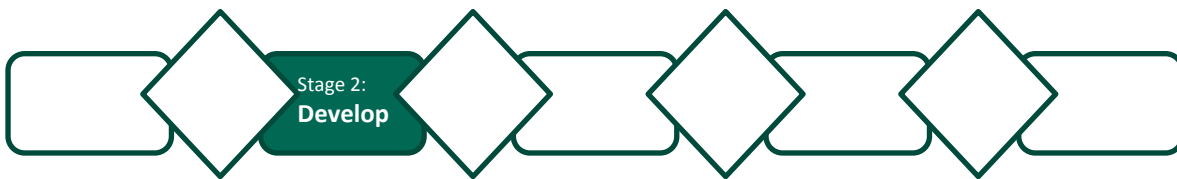
## Investment Decision: Decision to Develop



- A.4 A proposed Enhancement will not be developed further without a Strategic Outline Business Case (SOBC). This SOBC should set out and consider the range of approaches available to meet the opportunity identified, rather than focusing on one. Government will need to agree and endorse this SOBC before engaging in a Decision to Develop with all the relevant parties. Funding for the next stage of work (Develop) will be agreed as part of this Decision.
- A.5 The following information will also be required to inform the Decision to Develop:
- A description of a clear, benefit for rail users. This should link directly back to the government's priorities for rail;
  - A clear plan of action for the "Develop" stage, with anticipated costs for that stage;
  - An indicative cost for the Enhancement, were it to progress to completion. Note that this is not intended to be a detailed cost estimate, rather an indication so that an assessment of the impact on the portfolio can be made. Costs will continue to be developed further throughout the stages of the pipeline;
  - Assurance that other transport solutions and interventions have been considered;
  - Demonstration that rail demand has been considered in the Enhancement; and
  - An indication of whether the Enhancement might be suitable for private investment or alternative delivery models.

## Stage 2: Develop

### *Develop the outcomes*



### The Develop Stage

- A.6 The Develop stage considers the feasibility of the investment. The Enhancements within this stage have a SOBC that has been endorsed by government and have a plan to develop the approaches it identified further. Enhancements in this stage are part of the government's Enhancements portfolio and are subject to formal governance and change control.

#### **Focus of activity**

- A.7 The aim during this stage is to identify how best to realise the anticipated benefits. A range of options should be considered to both define those benefits and to compare the costs and benefits of each option. This will require consideration of both potential infrastructure and operational outputs and making a high level relative assessment of the deliverability, costs and benefits of those options. This naturally places the emphasis on establishing credible economic and financial cases for the Enhancement.
- A.8 During the Develop stage detailed work will be undertaken in order to further define the required benefits and to then validate each intervention and gain a more detailed understanding of what is required. For example if the solution is infrastructure based this stage might require that more detailed surveys or engineering design are undertaken in order to gain a better understanding of likely costs and timescales.
- A.9 One of the key activities during this stage will be to identify the potential sequence for delivering benefits to customers with the emphasis being on identifying how best to deliver incremental benefits early in the lifecycle.

## Investment Decision: Decision to Design



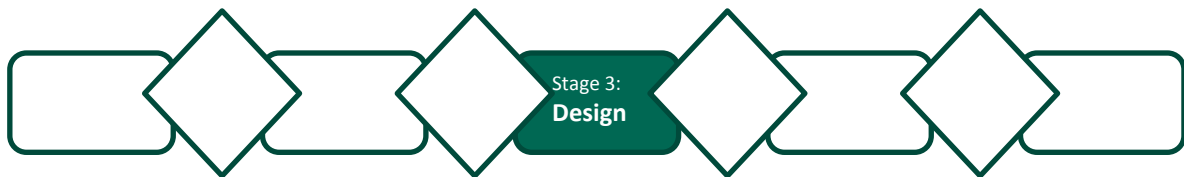
A.10 An Enhancement cannot progress to the Design stage of the pipeline without an Outline Business Case (OBC). Government will need to agree and endorse this OBC before engaging in a Decision to Design with all the relevant parties. Funding for the next stage of work (Design) will be agreed as part of this Decision.

A.11 The following information will also be required to inform the Decision to Design:

- Confirmation of the intended benefits and a justified recommendation on how to achieve these;
- A robust commercial strategy for implementing any service changes or improvements upon which the case for the delivery of the Enhancement relies and the financial impacts of this strategy;
- A clear plan of action for the Design stage, with anticipated costs;
- An updated view of indicative costs for the Enhancement, were it to progress to completion. This is not expected to be a detailed cost estimate, rather it is to allow a portfolio assessment. At this stage the costs should consider the impacts on whole life costs including on operations, maintenance and renewals, as appropriate;
- An indication of the delivery timeframe.
- A high level assessment of the potential disruption to services and/ or the impact of risks that might be caused to the existing railway;
- Evidence of how the Enhancement option addresses and/ or affects rail demand;
- An indication of the intended route for planning consents, if appropriate;
- If appropriate, evidence of engagement with private sector investors; and
- If appropriate, evidence of a plan for alternative methods of delivery.

## Stage 3: Design

### *Design the outputs*



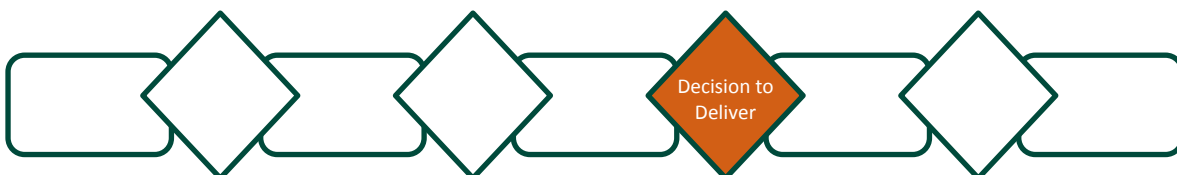
### The Design Stage

- A.12 The Design stage is the refinement stage of the pipeline. The Enhancements within this stage have an OBC that has been endorsed by government and have a plan to design the optimal railway solution that will realise the desired benefits. Enhancements in this stage are part of the government's Enhancements Portfolio and are within formal governance and change control.

#### **Focus of activity**

- A.13 The aim during this stage is to design the detailed scheme and railway outputs that will realise the desired benefits. This will require the development of detailed cost estimates, detailed plans and work bank planning for the preferred scheme, and securing appropriate consents for its delivery. This will include securing planning consents through either Transport and Works Act Order (TWAO), Development Consent Order (DCO), or in rare cases, through legislation.
- A.14 Work will be undertaken to prepare commercial arrangements for any service changes enabled by the Enhancement and to ensure that they can be realised successfully. This naturally places the emphasis on confirming the commercial and management cases and can only be achieved by close working with government, the infrastructure manager, delivery agent, and funder(s).

### Investment Decision: Decision to Deliver



- A.15 An Enhancement cannot progress to the Deliver stage of the pipeline without a Full Business Case (FBC). Government will need to agree and endorse this FBC before engaging in a Decision to Deliver with all the relevant parties. Funding for the next stage of work (Delivery) will be agreed as part of this decision.

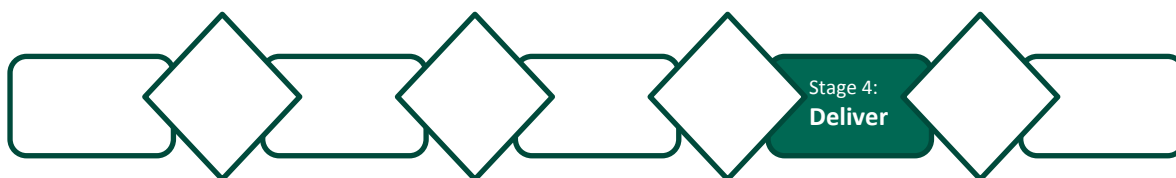
A.16 The Decision to Deliver is the Final Investment Decision. This is the point at which the final construction costs and delivery schedule will be agreed and is the pre-cursor to starting construction.

A.17 The following information will also be required to inform the Decision to Deliver:

- A description of the service changes and improvements that will be enabled by the Enhancement and an understanding of how these will be delivered and supported by the Enhancement;
- A detailed plan for the Delivery of the Enhancement, including associated changes linked to the Enhancement and anticipated dates for milestones and any major possessions or blockades;
- An anticipated final cost for the Enhancement and evidence of assurance and contingency. This will be the final budget for the Enhancement, so will need to be accurate and demonstrate an appropriate methodology, with appropriate market tested or post-procurement costs used. This should also set out any long run maintenance and operational costs that result from the Enhancement;
- Anticipated final benefits from the Enhancement, based on the detailed specification for the scheme, using the Department for Transport's WebTAG guidance.
- Confirmation of necessary planning permissions being in place;
- A detailed assessment of any anticipated disruption to services that may be created by the delivery of the Enhancement, and of the intended mitigating actions;
- A detailed assessment of how the Enhancement will address and affect rail demand;
- If appropriate, confirmation of contracts with private sector investors; and
- If appropriate, confirmation of contracts with an appropriate infrastructure partner.

## Stage 4: Deliver

### *Deliver the solution*



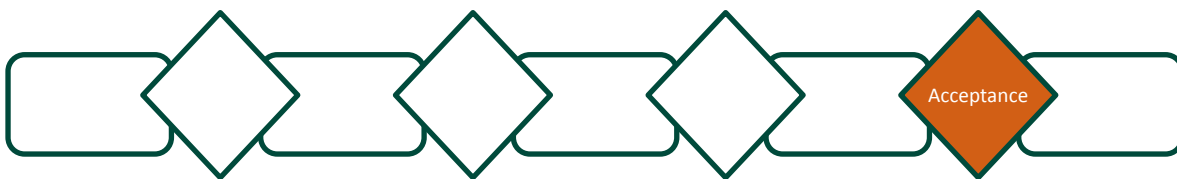
### The Deliver Stage

A.18 The Deliver stage is the stage of the pipeline where works are completed, including preparing for operational running. The Enhancements within this stage have a FBC that has been endorsed by government and the necessary works are being carried out to deliver it. All Enhancements within the Deliver stage are part of the Enhancements portfolio and are within formal governance and change control.

### Focus of activity

- A.19 The aim during this stage is to complete the Enhancement, whilst maintaining regular milestone, risk and cost reporting to the joint programme and portfolio governance. The focus of activity is, therefore, on managing the delivery to enable the service change and secure the intended benefits. This will include, for example, securing and managing contractors to deliver the works. A key focus will be on managing any changes to the Enhancement and in ensuring disruption to the existing network is minimised and clearly communicated throughout the Deliver stage.

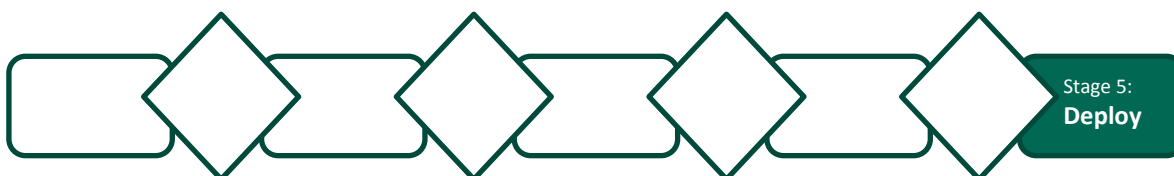
### Decision: Acceptance



- A.20 The Acceptance decision is made following the conclusion of delivery works. It confirms that the Enhancement has completed satisfactorily and that no further investment is needed to secure the intended benefits. This is primarily a technical assessment carried out by the Infrastructure Manager and the operating company(ies) that will deliver the service changes if appropriate. It is of particular importance in the case of Market Led Proposals, where new infrastructure is being brought into service on the national network. Government may also consider evaluation methods that it might wish to put in place at this decision point.

### Stage 5: Deploy

#### *Derive the Benefits*



### The Deploy Stage

- A.21 The Deploy stage is the final stage of the pipeline. The Enhancements within this stage have been completed and benefits are now being realised.

**Focus of activity**

- A.22 The stage is about taking advantage of the Enhancement through service change(s) that make the most of the investment in the Enhancement. The focus of activity in the Deploy stage is on delivering the benefits, formal evaluation, celebrating success, and learning any lessons from the Enhancement for the benefit of the wider portfolio.





Department  
for Transport

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5th March 2021

John Reed  
Industry Programme Director, TRU  
Network Rail

Dear John,

#### Transpennine Route Upgrade Funding Availability

Further to recent discussions, I am happy to provide Network Rail with confirmation of funding availability for the Transpennine Route Upgrade (TRU), to support the submission of Network Rail's Transport and Works Act Order (TWAo) application for consent to deliver Project W3 of TRU.

Funding will be met from the Rail Enhancements Budget. The TRU investment programme will span a number of investment control periods. In Control Period 6 (2019 – 2024) the funding requirement assumed for the TRU Programme is £2.14bn; this includes budget provision towards the W3 costs as set out in the NR Estimate of Costs.

In Autumn 2019 Government published its update to the five-year Rail Network Enhancements Pipeline (RNEP) listing projects to increase the capabilities of the rail network in England & Wales. Schemes within the Enhancement Pipeline progress through decision gateways to secure funding and the publication confirms that the TRU Programme has secured a Decision to Design.

In July 2020, the Department for Transport confirmed the Government's commitment to TRU with the approval of a further £589m of funding to progress design and early works for projects on TRU, including Project W3. In addition to funds already available in Control Period 6, the Secretary of State anticipates that he will make funding available from future budgets in Control Period 7 to continue this project, provided it has the required consents and continues to be value for money.

In July 2020, the Secretary of State for Transport, and Northern Powerhouse Minister Grant Shapps said:

*'People across the north rightly expect action, progress and ambition and this government is determined to accelerate improvements as we invest billions to level up the region's infrastructure.'*

With the Chancellor, Rishi Sunak adding:

*'Levelling-up opportunity will be key in our recovery from coronavirus and our long-term success will rely on having world-class infrastructure in all parts of the country. The Transpennine rail upgrade shows we are delivering on our promises to the north.'*

There is ongoing scrutiny of both costs and programme for TRU, as per all significant infrastructure projects, but the government and the Department are committed to the successful delivery of TRU, starting with the success of the TWAO.

Yours sincerely,

A handwritten signature in black ink, reading "Farha Sheikh". The signature is fluid and cursive, with the first name "Farha" and the last name "Sheikh" clearly distinguishable.

Ms Farha Sheikh  
Programme Director - TransPennine Route Upgrade  
Department for Transport

# Annex B. The package prioritising regional links

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These packages focus on capacity improvements for regional, largely east-west connections in the Midlands and the North. Long distance north-south improvements are concentrated on the western leg of HS2 and upgrades to some conventional lines. Further spending is focussed on connecting Birmingham, Derby, Nottingham and Leicester in the Midlands, and Manchester, Liverpool, Leeds and York in the North.

The Commission has developed two packages of rail investments that prioritise regional links. Alongside the schemes included in all the packages (see annex A), the two packages include the following:

- the first, in line with the ‘plus 25 per cent’ budget:
  - delivers major Northern Powerhouse Rail upgrades (including some new lines) on the route between Liverpool, Manchester and Leeds
  - deliver the Transpennine Route Upgrade, which includes line speed increases and full electrification from Manchester to York and four tracking between Huddersfield and Dewsbury to allow fast trains to bypass stopping services
  - addresses congestion between Leeds and York
  - improves links between Leeds and Bradford
  - delivers a new high speed line from Birmingham to the East Midlands which provides direct services to East Midlands Parkway and Nottingham
  - upgrades the Midland Main Line from East Midlands to Sheffield and Leeds
  - upgrades the East Coast Main Line between Leeds and London, which will also benefit the North East.
  - delivers line speed and capacity benefits to rail links between Birmingham, Leicester, Nottingham, Coventry, Derby, Hereford and Worcester and improved services to Wales and the south west through the Midlands Rail Hub
  - improves links to Birmingham International airport and Coventry from Derby and Sheffield in the North and Oxford and Reading in the South, due to the Midlands Engine Rail programme

- **the second, in line with the ‘plus 50 per cent’ budget:**
  - delivers wholly new Northern Powerhouse Rail lines on the route between Liverpool, Manchester and Leeds, which would also serve Bradford (replacing the options in the ‘plus 25 per cent’ package)
  - increases capacity between Leeds and Newcastle
  - upgrades the Hope Valley route from Manchester and Sheffield
  - delivers a new line into Leeds off the existing network north of Sheffield and a new high speed line from Birmingham to the East Midlands providing direct services to Nottingham
  - upgrades the Erewash Valley route between Nottingham and Sheffield
  - upgrades the Midland Main Line.

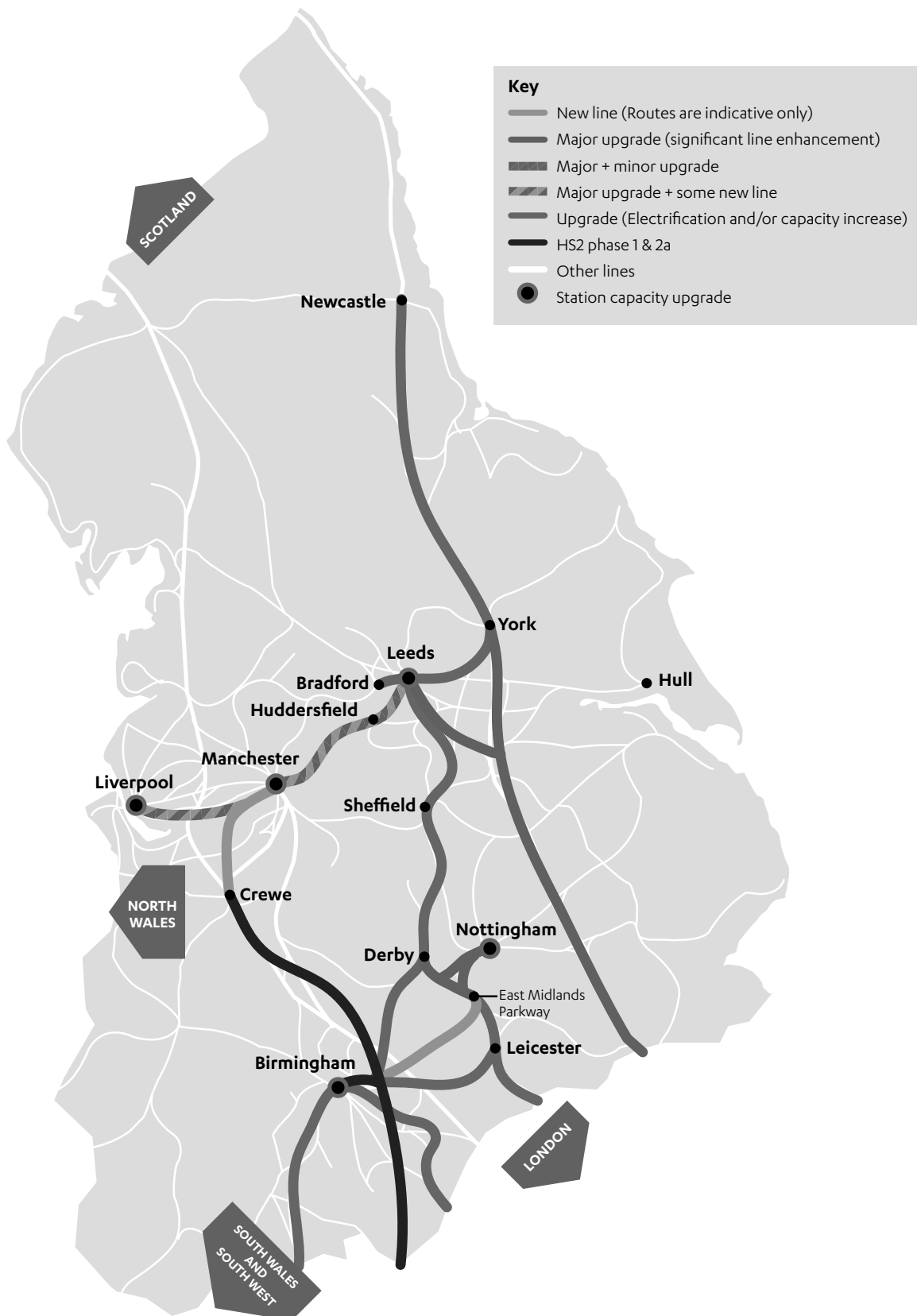
Costs for the packages prioritising regional links are £69 billion (in the package in line with the ‘plus 25 per cent’ budget) and £92 billion (in the package in line with the ‘plus 50 per cent’ budget), net of HS2 Phase 1 and 2a and including £15 billion for decarbonisation, digital signalling and ‘early wins’.

HS2 will mainly be concentrated on the western leg, with a mix of new lines and upgrades to connect the East Midlands and Yorkshire, rather than the full eastern leg of HS2 Phase 2b, under both 25 per cent and 50 per cent budget options.

The partial eastern leg of HS2 Phase 2b included in the packages (as far as East Midlands Parkway with use of the conventional rail network to reach Nottingham and Derby) has the potential to significantly improve connections between the West and East Midlands, reducing journey times between Birmingham and Nottingham from 72 to 27 minutes. Meanwhile, the new line running into Leeds in the ‘plus 50 per cent’ package could provide equivalent journey time and frequency improvements between Leeds and Sheffield as the proposed Northern Powerhouse Rail scheme, which relies on HS2 infrastructure, would do. This new line would also improve connections between West Yorkshire, South Yorkshire and the East Midlands.

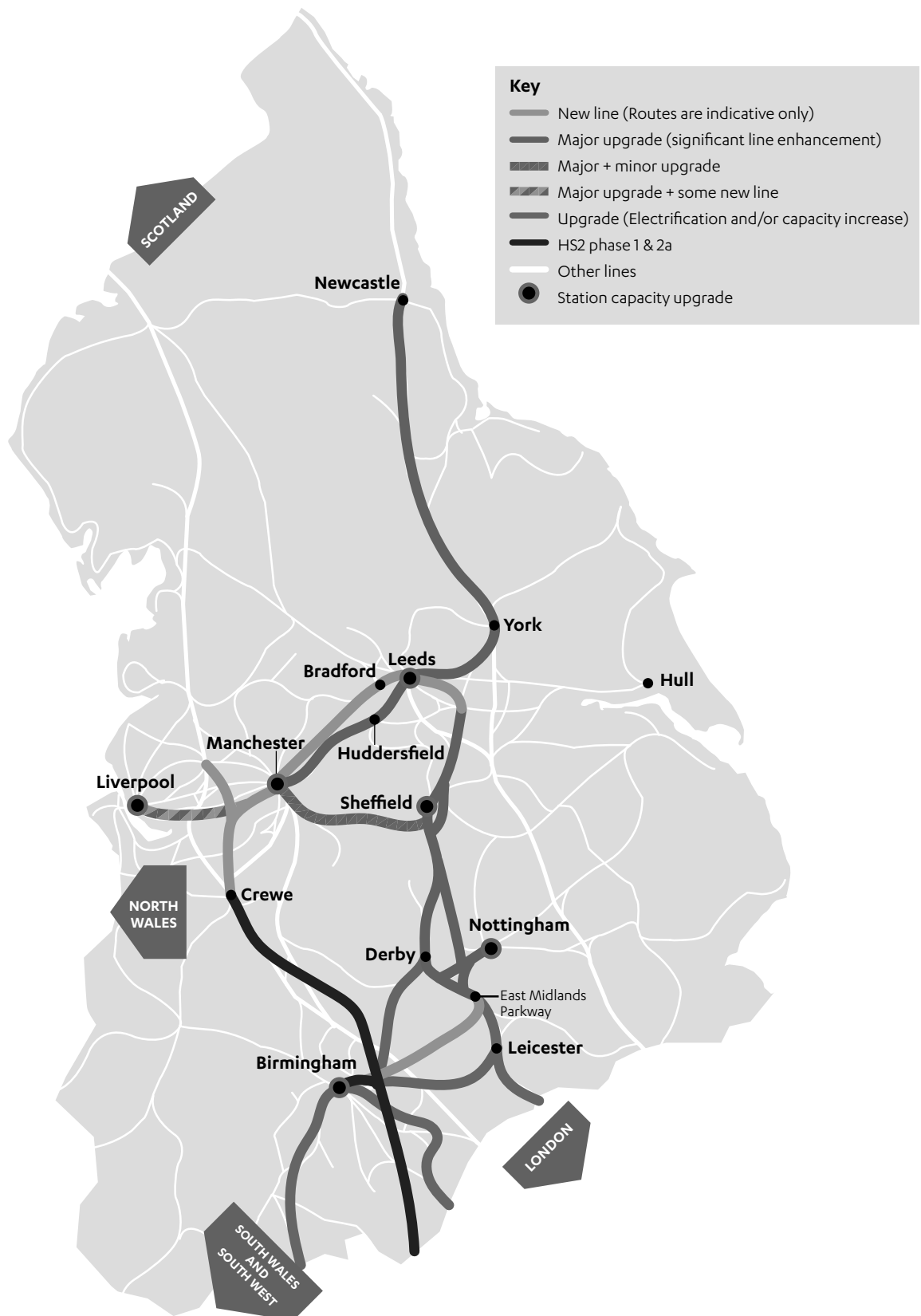
Early elements of the Transpennine Route Upgrade are underway with plans also progressing for further work, and it is likely that some Midlands Engine Rail schemes, and the Midland Main Line electrification, could also be delivered in the 2020s. The western leg of HS2 Phase 2b from Crewe to Manchester is expected to be completed in 2038. Large scale interventions in this package will require bills to be passed through Parliament, which will likely push back delivery of some schemes until the 2030s. However, delivering a mix of new lines and upgrades to connect the East Midlands and Yorkshire, rather than the eastern leg of HS2 Phase 2b, should be able to deliver connectivity faster than delivering the full eastern leg.

## Prioritising regional links (plus 25 per cent)



Infrastructure interventions are shown indicatively, not service origins and destinations. Not all stations shown.

## Prioritising regional links (plus 50 per cent)



Infrastructure interventions are shown indicatively, not service origins and destinations. Not all stations shown.

## What does the package deliver?

Figure B.2 sets out the headline assessment of the benefits and impacts of the package that the Commission has quantified.<sup>142</sup>

**Figure B.2: Headline benefits and impacts for the package (benefits are measured over 60 years from scheme opening)<sup>143</sup>**

				'plus 25 per cent'	'plus 50 per cent'
Economic growth and competitiveness	Improvements to connectivity from faster journeys			9-15%	11-19%
	Improvements to productivity in city centres	Ave. annual impact		£0.5-0.8bn	£0.7-1.2bn
		60-year appraisal period	Undiscounted	£30-51bn	£41-71bn
			Discounted	£12-20bn	£16-29bn
Sustainability and quality of life	Benefits from connecting people to city services		Undiscounted	£11-26bn	£16-38bn
			Discounted	£3-7bn	£4-10bn
	Loss of natural capital (partial valuation)			£105-135m	£215-275m
	Lifecycle carbon emissions			4MtCO2e	6 MtCO2e

These packages appear to deliver the highest benefits and are most likely to support the strategic objective of levelling up the North and the Midlands.

### Connectivity

In both packages there are big improvements to journey times between Birmingham and Nottingham (72 minutes to 27 minutes) and Leeds and Manchester (50 minutes to 31 minutes and 26 minutes in the 'plus 25 per cent' and 'plus 50 per cent' packages respectively). Journey times do not improve substantially between Birmingham and Leeds in the 'plus 25 per cent' budget package, but they are halved in the 'plus 50 per cent' budget package. Journey times and the frequency of services between Leeds and Sheffield improve substantially under the 'plus 50 per cent' package – which more than halves the current journey times – with a small improvement to journey times in the 'plus 25 per cent' package as well.

**Figure B.3: Journey times (minutes) and trains per hour between key cities in the Midlands and the North<sup>144</sup>**

Origin – destination pair	Current		Regional links 'plus 25 per cent'		Regional links 'plus 50 per cent'	
	Journey time fastest (minutes)	Trains per hour	Journey time (minutes)	Trains per hour	Journey time (minutes)	Trains per hour
Birmingham-Manchester	90	2	40	4	40	4
Birmingham-Leeds	120	1	117	1	60	3
Leeds-Manchester	50	5	31	8	26	10
Birmingham-Nottingham	72	2	27	4	27	4
Manchester-Liverpool	36	4	29	8	26	8
Leeds-Newcastle	88	3	76	4	62	5
Derby-Sheffield	35	5	32	5	32	5

Bradford-Leeds	19	up to 8	19	up to 8	13	up to 14
Leeds-Sheffield	42	3	39	3	24	7
Sheffield-Manchester	55	2	55	2	41	4
Sheffield-London	132	2	104	3	93	3
Birmingham-London	73	8	48	10	48	10
Leeds-London	119	2	113	2-3	93	3-4
Manchester-London	119	3	73	4-5	73	4-5
Newcastle-London	193	2	145	3	177	3
Nottingham-London	109	2	58	4	58	4

Figure B.4 sets out the improvements in connectivity for the listed cities that these two packages provide.

**Figure B.4: Improvements to connectivity against the baseline by place, central estimates<sup>145</sup>**

	Birmingham	Manchester	Leeds	Liverpool	Sheffield	Newcastle	Nottingham	Leicester	Hull	Bradford		Edinburgh	Glasgow		Birmingham Airport	Manchester Airport
<b>+25%</b>	16%	13%	6%	9%	9%	4%	26%	7%	15%	8%		4%	4%		14%	32%
<b>+50%</b>	23%	15%	21%	11%	14%	14%	31%	8%	16%	22%		4%	5%		19%	33%

## Capacity

The schemes in the ‘plus 25 per cent’ package provide the highest improvements for productivity in city centres at this budget – estimated to be around 20 per cent higher than the potential improvements from the ‘plus 25 per cent’ package prioritising long distance links – and these benefits are primarily for cities in the Midlands and the North. These benefits are based on the increases to capacity (see figure B.5) which can support higher densities in city centres.



**Figure B.5: Increase in number of seats and standing spaces on commuter lines compared to current (during the morning peak, key cities), central estimates<sup>146</sup>**

	'plus 25 per cent'	'plus 50 per cent'
Birmingham	20,000	20,000
Bradford	7,000	13,000
Coventry	1,000	1,000
Derby	5,000	5,000
Leeds	21,000	42,000
Liverpool	14,000	14,000
Manchester	47,000	64,000
Newcastle	4,000	8,000
Nottingham	7,000	7,000
Sheffield	4,000	16,000

## Productivity and amenity benefits

Figure B.6 shows the Commission estimates for the productivity and amenity benefits for the major cities that result from the increased capacity provided by these packages. Birmingham, Leeds, Liverpool and Manchester receive the greatest benefits under both packages (and Sheffield in the 'plus 50 per cent').

**Figure B.6: Total productivity plus amenity benefits provided by the package investments over a 60 year period from the opening of schemes (undiscounted), central estimates<sup>147</sup>**

City	Productivity plus amenity benefits (£ billion)	
	25 per cent	50 per cent
Birmingham	9.7	9.7
Bradford	1.7	3.2
Coventry	0.4	0.4
Derby	2.6	2.6
Leeds	5.9	11.8
Liverpool	5.2	5.1
Manchester	21.8	29.6
Newcastle	1.4	3.1
Nottingham	2.2	2.2
Sheffield	1.4	5.2

## Risks and further work required

Further work is likely to be required on this package in a number of areas:

- The interventions between the East Midlands and Yorkshire are likely to bring an element of disruption to rail passengers and freight users, which will need careful consideration by the rail industry as projects are taken forward. There will also be some disruption on the roads, although there will be less than if the full eastern leg of HS2 were built.

- Under these options, there would need to be significant station redevelopment at Leeds. Plans for the redevelopment of Leeds Station are based around current plans for HS2 and Northern Powerhouse Rail, so further work is likely to be needed to ensure that the design works for the schemes set out in these packages. In particular, these interventions are focused on delivering additional trains as part of Northern Powerhouse Rail through additional track capacity and platforms. More widely, bringing the plans for the station and capacity together with area regeneration is part of the Leeds Integrated Station Masterplan which will need to consider plans in more detail as the scheme options are developed.
- The new line to East Midlands Parkway, included at both budgets, the East Coast Main Line upgrades, included at the 'plus 25 per cent' budget, and the new line into Leeds and further interventions south to Sheffield, included in the 'plus 50 per cent' budget, will require further development, as these have come out of the work on strategic alternatives to HS2 – see chapter 5.

In order to maximise the potential benefits of packages and deliver as much of the current HS2 and Northern Powerhouse Rail service specifications as possible, the line between Leeds and Hull would also need to be upgraded and fully electrified. The route between Leeds and Hull is therefore an obvious candidate for early intervention through the budget allocated to a rolling programme of electrification.

## Unlocking investment in land around stations

These packages may deliver some further benefits, particularly for Leeds and the surrounding area and the Midlands, alongside the benefits set out in annex A for Manchester and Liverpool from the western leg of HS2 Phase 2b.

Some of the benefits from improved connectivity and agglomeration will be capitalised into higher land prices. But there can also be an additional effect on land prices as rail investment, particularly around stations, can act as an anchor investment, signalling to the market that the location is worth investing in. These effects will be expected to be present where land values elsewhere in the city are high, signalling scarcity, and where development will increase density so that scarcity constraints are eased.<sup>148</sup>

The 'plus 50 per cent' packages include the full planned redevelopment of Leeds station – before the Covid19 crisis, the present station was expected to reach capacity by 2026 – as well as significantly improved connections to Bradford, York and Newcastle. The Leeds Inclusive Growth Strategy includes the aspiration to 'double the size of the city centre', with a rebuilt Leeds station seen as the key element to providing the 'capacity required to support the rapid expansion of the city centre.'<sup>149</sup>

There are also potential benefits in the Midlands, with both packages delivering Midlands Connect local links to Birmingham Curzon Street and Birmingham Interchange, which are the focus of regeneration activity. The redevelopment of Birmingham Moor Street aims to create a 'one station' concept where the station shares a square with Curzon Street station, with a footbridge in between the stations and better pedestrian access to Birmingham New Street.<sup>150</sup>

# Annex C. The package prioritising long distance links

These packages aim to improve long distance connectivity between the biggest, most congested cities in the Midlands and the North, with the complete HS2 Phase 2b releasing capacity on the East Coast and West Coast Main Lines and improving north-south journey times.

The Commission has developed two packages of rail investments that prioritise long distance links. Alongside the schemes included in all the packages (see annex A) the two packages include the following:

- the first, in line with the 'plus 25 per cent' budget, includes:
  - the full HS2 Phase 2b eastern leg
  - Transpennine Route Upgrade: electrification of sections of the line between Manchester and York and some line speed increases
  - Midlands Connect schemes using the eastern leg of HS2
- the second, in line with the 'plus 50 per cent' budget, includes schemes listed above plus:
  - a wider range of upgrades across the Midlands and the North
  - a mix of new lines and upgrades between Manchester and Leeds as well as the Transpennine Route Upgrade between Manchester and York
  - upgraded connections and capacity from York to Newcastle
  - an upgrade to the Manchester to Liverpool line via Warrington Central
  - delivers line speed and capacity benefits to rail links between Birmingham, Leicester, Nottingham, Coventry, Derby, Hereford and Worcester and improved services to Wales and the south west through the Midlands Rail Hub
  - improves links to Birmingham International airport and Coventry from Derby and Sheffield in the North and Oxford and Reading in the South, due to the Midlands Engine Rail programme.

Costs for the packages prioritising long distance links are £68 billion (in the package in line with the 'plus 25 per cent' budget) and £90 billion (in the package in line with the 'plus 50 per cent' budget), net of HS2 Phases 1 and 2a and including £15 billion for traction decarbonisation, digital signalling and 'early wins'.



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# Report to the Secretary of State for Transport

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Date: 4 September 2023

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**TRANSPORT AND WORKS ACT 1992**

**TOWN AND COUNTRY PLANNING ACT 1990**

**THE NETWORK RAIL (CHURCH FENTON LEVEL CROSSING REDUCTION)  
ORDER 202[x]**

**REQUEST FOR A DIRECTION UNDER SECTION 90(2A) OF THE TOWN AND  
COUNTRY PLANNING ACT 1990 FOR DEEMED PLANNING PERMISSION**

Inquiry sat 8 – 10 August 2023

File Ref: TWA/2/2/190

Planning Inspectorate Ref: DPI/N2739/23/4

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## ABBREVIATIONS and TERMS

CFM	Church Fenton to Micklefield railway line (the line crossed by the level crossings, footbridge and proposed highway bridge)
COCP	Code of Construction Practice
CTMP	Construction Traffic Management Plan
DFE	Design Flood Event (the 1% annual probability flooding event with a factor added in for climate change)
DfT	Department for Transport
DPP	Deemed Planning Permission
ECHR	European Convention on Human Rights
EIA	Environmental Impact Assessment
ER	Environmental Report
FRA	Flood Risk Assessment
HS2	High Speed 2
IRP	Integrated Rail Plan
LVIA	Landscape and Visual Impact Assessment
NOC	Normanton to Colton Junction railway line (the line which joins the CFM line between the location of the footbridge and Church Fenton station)
NPPF	National Planning Policy Framework
NR	Network Rail
NTPR	North Transpennine Rail Route
NYC	North Yorkshire Council (the successor unitary authority to a number of authorities in the area; of relevance here, North Yorkshire County Council and Selby District Council)
OLE	Overhead Line Equipment (the overhead wires and supporting infrastructure to power electric trains)
Order	The Network Rail (Church Fenton Level Crossing Reduction) Order
SoM	Statement of Matters
SoST	Secretary of State for Transport
ST	Sequential Test
TRU	Transpennine Route Upgrade
TWA	Transport and Works Act 1992
TCPA	Town and Country Planning Act 1990
2004 Rules	The Transport and Works (Inquiries Procedure) Rules 2004
2006 Rules	The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

## **CASE DETAILS**

### **THE NETWORK RAIL (CHURCH FENTON LEVEL CROSSING REDUCTION) ORDER 202[x]**

#### **REQUEST FOR A DIRECTION UNDER SECTION 90(2A) OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR DEEMED PLANNING PERMISSION**

- The Order would be made under sections 1 and 5 of the Transport and Works Act 1992.
- The deemed planning permission would be granted by a Direction under section 90(2A) of the Town and Country Planning Act 1990 (the 1990 Act).
- The application for the Order and deemed planning permission was made on 20 July 2022.
- The application and supporting documents are available on the following website: <https://www.networkrail.co.uk/running-the-railway/railway-upgrade-plan/key-projects/transpennine-route-upgrade/church-fenton-level-crossing-reduction/>
- The Inquiry documents are available on the following website: <https://gateleyhamer-pi.com/en-gb/church-fenton/>
- The Order would authorise the closure of three level-crossings (the Rose Lane crossing, Poulters level-crossing and Adamsons level-crossing) and provide new pedestrian and vehicular access routes for private rights holders across the railway. This will be achieved by replacing the three level-crossings with a new road bridge and access road which will join Common Lane to the southern end of Rose Lane. Access tracks to farmland, replicating the access provided by Poulters and Adamsons level-crossings will be taken from this access road. The existing footbridge over the railway line located on Rose Lane will be removed and a new footbridge will be provided in the same location. A parking area for the residents of Rose Lane would be provided at the end of the new highway.
- The Order includes provisions for the compulsory acquisition of land for the proposed works and ancillary purposes, including worksites; the acquisition of rights over specified land; provisions for the temporary use of land in connection with the proposed scheme; and the extinction and creation of private rights; and the temporary stopping up of highways; closure of level-crossings; provisions relating to streets; and powers to survey and investigate land.
- There were 2 objections to the Order outstanding at the close of the Inquiry.

## **SUMMARY OF RECOMMENDATIONS**

### **THE NETWORK RAIL (CHURCH FENTON LEVEL CROSSING REDUCTION) ORDER 202[x]**

That the Order, subject to the corrections in the version handed up during the inquiry (INQ11.2) be made.

### **REQUEST FOR A DIRECTION UNDER SECTION 90(2A) OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR DEEMED PLANNING PERMISSION:**

That deemed planning permission be granted subject to conditions, for the works that are the subject of the Order.



## **PREAMBLE**

### **Application and contributors**

- 1 The Applicant, Network Rail Infrastructure Limited (NR), owns and operates the rail infrastructure of Great Britain. Its purpose is to deliver a safe, reliable and efficient railway. NR is primarily responsible for maintenance, repair and renewal of track, stations, signalling and electrical control equipment.
- 2 NR seeks powers by way of the Network Rail (Church Fenton Level Crossing Reduction) Order 202[x] (the Order), under sections 1 and 5 of the Transport and Works Act 1992 (the TWA) to stop up three private level-crossings, provide a new highway and bridge, new footbridge and carry out associated works, including the provision of a parking area for Rose Lane residents. NR also seeks to acquire land, both on a permanent and temporary basis, to carry out these works and others for which NR already has permitted development rights.
- 3 The other works to be carried out under permitted development rights, but requiring Order land, include track realignment, the extension of the third track section, electrification works and fencing. Utility diversions will also be required.
- 4 NR has also requested, under section 90 (2A) of the Town and Country Planning Act 1990 (the TCPA) that planning permission be deemed to be granted for those works authorised by the Order.
- 5 On 11 January 2022, under Rule 7 of The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (the 2006 Rules), NR requested a screening decision from the Department for Transport (DfT) as to whether an environmental impact assessment (EIA) was required for the Order application. Following consideration of that request and the consultation responses of various relevant bodies, and having regard to the characteristics and location of the project and the type and characteristics of potential impact, on the basis of the available information, the Secretary of State's screening decision was that an EIA was not required<sup>1</sup> for the Order scheme.
- 6 Despite that, NR prepared and submitted an Environmental Report (ER)<sup>2</sup> in response to feedback on the need to consider in detail issues of water resources, landscape and visual effects and ecology. The ER also considered arboriculture, agriculture and soils, cultural heritage and archaeology, traffic and transport, and noise and vibration. The ER was used to enable NR to incorporate impact avoidance and mitigation measures into the scheme design.

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<sup>1</sup> NR10

<sup>2</sup> NR16

- 7 Three objections to the proposed Order were received, although one of these was later reclassified as a representation. Eleven representations were received, of which six were withdrawn. As a result, two objections remained by the close of the inquiry<sup>3</sup>, although one of these has been substantively addressed through a letter of comfort from NR<sup>4</sup>. There are also six letters of support. I have reported on these remaining objections, representations and letters of support.

## Statement of Matters

- 8 On 12 May 2023 the DfT issued a Statement of Matters (SoM) pursuant to Rule 7(6) of the Transport and Works (Inquiries Procedure) Rules 2004 (the 2004 Rules). This set out the matters about which the Secretary of State for Transport (SoST) particularly wished to be informed in their consideration of the application.
- 9 That SoM did not preclude me from hearing evidence on any other matter I consider relevant, and its order and numbering did not imply any relative importance.
- 10 The matters specified are:
1. *The aims and objectives of, and the need for, the proposed Church Fenton Level Crossing Reduction ("the scheme"), including its effects on railway operations.*
  2. *Whether all statutory procedural requirements have been complied with.*
  3. *The main alternative options considered by NR and the reasons for choosing the preferred option set out in the Order.*
  4. *The likely impact of the exercise of the powers in the proposed TWA Order scheme on local businesses, residents and crossing users. Consideration under this heading should include:*
    - a. *Impact on landscape including hedges and trees.*
    - b. *Impact on drainage and flooding.*
    - c. *The impact of construction works on pedestrian and vehicle access.*
  5. *Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Ministry of Housing, Communities & Local Government Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" published on 29 October 2015 (as amended on 28 February 2018) <sup>5</sup>:*

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<sup>3</sup> OBJ01 (Mr Boddy) and OBJ02 (Mr Poulter).

<sup>4</sup> INQ13

<sup>5</sup> This guidance is now the Department for Levelling Up, Housing & Communities Guidance on Compulsory purchase process and The Crichel Down Rules, updated on 16 July 2019

- a. *Whether there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use land for the purposes of the scheme.*
  - b. *Whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to Human Rights Act).*
  - c. *Whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding.*
  - d. *Whether all the land and rights over land which NR has applied for is necessary to implement the scheme.*
6. *The conditions proposed to be attached to the deemed planning permission for the scheme.*
  7. *Any other matters which may be raised at the inquiry which may be important and relevant to the Secretary of State's decision.*

### **The inquiry**

- 11 The public inquiry was called by the SoST under section 11 of the TWA, and I was appointed to hold an inquiry into the application for the Order and Deemed Planning Permission (DPP).
- 12 A pre-inquiry note was set to the parties on 4 July 2023, setting out certain procedural matters relating to the inquiry.
- 13 I opened the inquiry at 10:00 on Tuesday 8 August 2023 and closed it on Thursday 10 August. I carried out an unaccompanied site inspection in advance of the inquiry on 2 August 2023, and a formal, accompanied site visit during it at the request of a statutory objector. My thanks to Mr Poulter and NR for facilitating this.
- 14 Mrs Joanna Vincent of Gateley Hamer was appointed as independent Programme Officer for the inquiry. Her role was to assist the procedural and administrative aspects of the inquiry, including the programme, under my direction. She was of considerable help in ensuring the proceedings ran efficiently and effectively but played no part in this report.

### **This report**

- 15 This report sets out a brief description of the land covered by the proposed Order, its surroundings and the main elements of the cases for the applicant, supporters, objectors and those making representations. At the end of the report are my conclusions framed around the SoM and my recommendations. A list of abbreviations is set out at the start and lists of documents and appearances are appended. Footnotes in the report provide references to documents as well as points of information and clarification.

## **DESCRIPTION OF THE ORDER LAND AND ITS SURROUNDINGS**

- 16 The Order land, described in detail in the ER<sup>6</sup> is located in Church Fenton, within the former Selby District Council area, now part of the new North Yorkshire Council (NYC). The area is generally flat and open, with groups of trees, hedging and woodland throughout the land and the surrounding area. It contains three private level-crossings, the access tracks to them, a footbridge, Rose Lane, Common Lane and farmland. There are no public rights of way within the Order land.
- 17 These three private level-crossings cross the Church Fenton to Micklefield railway line (CFM) railway line, which is part of the North Transpennine Rail Route (NTPR), running between York and Manchester, via Leeds and Huddersfield. To the north-east of the Order area, the CFM line joins the Normanton to Colton Junction (NOC) line, then Church Fenton railway station lies beyond that.
- 18 None of the land is subject to environmental designation. There are a number of watercourses within the Order land, and it lies within Flood Zones 2 and 3. There are no World Heritage Sites, scheduled monuments, listed buildings, conservation areas, registered parks and gardens, battlefields or protected wreck sites within the Order land or within 500m of it. The Order land is classified as 'Best and Most Versatile' agricultural land and lies within the South and West Yorkshire Green Belt, which extends eastwards to the NOC line.
- 19 Around the Order land lie houses, farms and some light-industrial units, with their associated buildings, generally in groups, largely fronting onto and accessed from Common Lane. Fifteen private cottages accessed from Rose Lane lie between the CFM and NOC line, at the eastern extent of the Order land. The village of Church Fenton lies roughly to the north-east, Barkston Ash to the south-west.

## **THE CASE FOR THE APPLICANT**

- 20 The Order scheme would enable NR to deliver improvements and upgrades to this part of the NTPR as part of the wider Transpennine Route Upgrade (TRU) programme. The Order scheme would allow for an increase in line speed (through track realignment and the extension of the third track) and electrification, all improving capacity, journey times and reliability. The Order would also remove risks to users of the level-crossings and the railway associated with the current at-grade crossings.
- 21 The Order scheme is an integral part of the TRU programme, the full benefits of which cannot be delivered without it. The TRU is itself part of a much wider governmental commitment to improving public transport, particularly in the north. The TRU has a role to play in delivering the levelling-up agenda, building back the northern economy and is supported through the Integrated Rail Plan, aiming to enhance capacity and connectivity to meet long-term demand, making journeys faster, easier and more reliable. There

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<sup>6</sup> NR16

is national, regional and local policy support for the TRU, and it has been fully funded.

- 22 Only two landowners have objected to the Order scheme, and even these express support in principle for it, objecting only on detailed matters.
- 23 The applicant's specific case in relation to the issues raised in the SoM is set out below and in their closing submission to the inquiry<sup>7</sup>.

### **Matter 1. The aims and objectives of, and need for the scheme**

- 24 The NTPR is a strategic rail route, in need of, but lacking in infrastructure investment to increase capacity, speed and reliability.
- 25 The Order scheme is a key part of the TRU, which aims to deliver improved journey times between key northern cities, improved capacity for local and express services, improved reliability, retain existing freight paths and contribute to NR's decarbonisation strategy and climate policy.
- 26 Whilst the Order scheme is a small part of the overall TRU, the current form of this section is a constraint to the wider project. The two-line layout affects service performance, resilience and capacity. The three level-crossings restrict the ability to increase the number of lines at this location, as safety standards do not normally allow for more than two-lines over a level-crossing. In addition, speed is limited by the track curvature and the presence of the level-crossings. Added to that, level-crossings are the largest single contributor to train accidents and risk on the network. The Rose Lane crossing in particular has a significant history of trespass and misuse, which has led NR to employ a full-time crossing attendant since 2020.
- 27 The replacement (wider and taller) footbridge is required to allow for the additional line, reduction in track curvature and electrification of the NTPR. Electrification requires increased clearance between structures over the railway and the overhead line equipment (OLE). In addition, electrification of lines over level-crossings has additional risks around contact with the OLE equipment, particularly at crossings used by farm machinery, such as at the Poulters and Adamsons crossings.
- 28 The closure of the level-crossings is necessary to increase line speeds, and realise all of the attendant benefits, including the safety improvements and risk reduction for current users of the crossings. Increasing line speed, capacity and electrifying the line in this location whilst retaining the level-crossings would increase risks to all in a way which NR considers cannot be appropriately mitigated. These issues are all addressed by the replacement of those crossings with a new highway bridge and the works associated with it.
- 29 The replacement footbridge is required to accommodate the realigned tracks, extended third track, and electrification of the line.

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<sup>7</sup> INQ15

- 30 The Order scheme will contribute to delivery of the TRU's aims by allowing the closure of the three level-crossings. This in turn allows an increase in lines speed, capacity, safety improvements and all of that improves performance on the NTPR. The replacement footbridge allows for track works and electrification, again, increasing speeds, safety and delivering environmental benefits. The acquisition of land, both temporarily and permanently is necessary to enable all of these works.

## **Matter 2. Compliance**

- 31 At the inquiry, NR confirmed that it had complied with its statutory obligations under the 2006 and 2004 Rules, and submitted a statement to that effect with supporting documents.<sup>8</sup>

## **Matter 3. Main alternatives, reasons for choosing preferred option**

- 32 There are no high-level strategic alternatives to the Order scheme which would deliver the TRU remit of improving performance and capacity whilst reducing journey times.
- 33 NR initially considered if the TRU aims could be delivered whilst keeping the level-crossings open, and mitigating risks, but this was not considered feasible.
- 34 A range of concept options were explored, including the replacement of the crossings with a new bridge (Option A), the provision of new crossings on the NOC line to allow closure of the crossings on the CFM line (Option B), the purchase of the Rose Lane cottages to remove the need for that crossing and the provision of alternative access for the Poulter and Adamson crossings (Option C) and the closure of the crossings with no replacement (Option D).
- 35 Sub-options within Option A were then considered, and two of those, which were broadly similar to the Order scheme were taken to public consultation. Following further consultation and engagement, with stakeholders, affected landowners and the public, the final option, the Order scheme, was selected.
- 36 Flood risk was a key factor driving the option selection, as much of the area, and indeed, much of the Order land is within Flood Zones 2 and 3. The sequential test (ST) required the comparison of reasonably available alternative options and locations, and the results of this were agreed with the local planning authority. High Speed 2 (HS2) Safeguarding was another key consideration in the option selection. Whilst the Order scheme does have a small section falling within the HS2 safeguarded area, this area and the process of safeguarding is a protection and management measure, not an absolute prohibition, and NR have used as little of the safeguarded area as possible and consulted with HS2 throughout the process.
- 37 Engagement with affected landowners has also influenced the option selection and has resulted in a number of changes to the Order scheme. These changes include the provision of east-west access across the new

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<sup>8</sup> INQ3

highway, a new cattle creep and commitments around land usage and restoration.

- 38 The Order scheme meets the operational and functional needs of the railway, allowing the introduction of OLE, line speed and capacity increases and a contribution towards the TRU. It does this whilst also allowing safe access and connectivity to be provided, minimising land-take, minimising the amount of raised development in Flood Zone 3, avoiding increased flood risk for others elsewhere. NR accepts that the impacts of the Order scheme would be greater for some than others but considers that the Order scheme is the best available option, having regard to what it is seeking to address, constraints and consultation.

#### **Matter 4. Likely impact on local businesses, residents and crossing users**

- 39 As noted above, an EIA was not required for the Order scheme, but NR submitted an ER which summarised its assessment of the environmental effects of the Order scheme as well as mitigation measures proposed.

##### Landscape, including hedging and trees

- 40 A detailed landscape and visual impact assessment (LVIA<sup>9</sup>) was carried out for the Order scheme. Using viewpoints selected and agreed with the local planning authority, NR produced a series of photomontages within the ER, showing the Order scheme with no mitigation and at year 15 with mitigation (essentially planting and landscaping).
- 41 In considering effects on landscape, the LVIA concluded that given the scale of the landscape national character area relative to the scale of the Order scheme, it is unlikely to be significantly affected. There would be a low magnitude of impact during construction and year 1, with no discernible change at year 15, when compared to the baseline landscape type and area.
- 42 In considering visual impacts on receptors at Common Lane and Rose Lane, the LVIA concluded that there would be a medium magnitude of impact during construction and year 1, but that this would reduce to low/very low by year 15 as a result of the maturing hedgerow and tree planting. In this, NR have explicitly considered the views from OBJ02's property<sup>10</sup>. Whilst the views from there would differ slightly from those in the photomontages, it is the professional opinion of NR's expert that such a slight difference would not result in a different assessment of the magnitude of any visual impact.
- 43 The Order scheme would result in the loss of eight individual trees, one group of trees and sections from three hedges. Three of these trees are removed in connection with the access road, track and culvert works. One hedge section is removed in connection with the new Rose Lane/Common Lane junction arrangements. The remainder are removed in connection with the replacement footbridge and residents parking area at Rose Lane.

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<sup>9</sup> NR16, NR37, NR37A

<sup>10</sup> NR37, NR37A

- 44 All remaining trees are to be retained and protected, and in any case, their loss is to be mitigated through replacement planting.

#### Drainage and flooding

- 45 Flood risk assessment (FRA) has informed the selection and design development of the preferred option now included in the Order. This has been set out in detail in the ER<sup>11</sup>, and includes an FRA, ST and Drainage Strategy.
- 46 The key flood risk is from the River Wharfe to the north; the Order scheme lies in both Flood Zones 2 and 3. This has been a key factor in both the location of the new highway and bridge, as well as its detailed design.
- 47 The detailed flood mapping of the area, overlain with the Order scheme<sup>12</sup> shows that although elements of the at-grade (that is, essentially flat, ground-level) parts of the highway and bridge are within Flood Zone 3, the design ensures that the greater part of the embankment (the volume of which would have the greatest effect on flood water storage within Flood Zone 3) is in Flood Zone 2.
- 48 Any movement of the Order scheme to the west, as proposed by OBJ02, whilst reducing the amount of at-grade development in Flood Zone 3, would increase the amount of the embankment within it, and would cause the potential storage basins to lie in Flood Zone 3.
- 49 Such an approach would neither be sequentially preferable in terms of the ST, as the location in the Order scheme would be a reasonably available alternative at lower risk of flooding, nor acceptable to the Environment Agency.
- 50 The Order scheme area is largely flat, with some more raised or depressed areas, with the CFM currently acting as a flood barrier preventing flood water flowing beyond it. Modelling of a 1 in 100-year flood event with climate change effects added in (the Design Flood Event, (DFE)) does however show flood water overtopping the CFM line in two places. Modelling of the original design for the highway and bridge, with embankments on either side of the line, then resulted in increased flood depth at the Rose Lane cottages in the DFE.
- 51 As this was considered unacceptable, the design was altered to the current open-span arrangement south of the CFM (the 'elevated flood alleviation structure'), which allows flood water flows during the DFE to continue southwards, protecting the Rose Lane cottages from any Order scheme associated effects.
- 52 This change also means that the loss of flood water storage arising from the embankment to the north of the CFM is mitigated, such that the initially proposed storage areas adjacent to it are no longer required. The modelling

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<sup>11</sup> NR16, NR36, NR36A

<sup>12</sup> NR16, Appendix 5B



which drove these conclusions is accepted by the Environment Agency and the Lead Local Flood Authority.

- 53 The Order application is accompanied by a Drainage Strategy<sup>13</sup> which shows the detailed works proposed to existing culverts and the overall approach to be taken to drainage. The Order scheme will replicate existing land drainage routes, take into account existing topography and through the use of swales and detention basins, ensure that surface water run-off will return to the same system of watercourses as at present. The Drainage Strategy also ensures that run-off rates will be no greater than at present.
- 54 Issues around damage to existing drainage features, structures or methods have been dealt with in protective provisions within the draft Order, as well as with specific letters of comfort, such as provided to OBJ01<sup>14</sup>.
- 55 As such, there would be no adverse effects on local residents or businesses as a result of the Order scheme.

#### Construction works, pedestrian and vehicle access

- 56 The draft Order does not allow for the closure of the existing level-crossings until the new access road, and the new access track are open for use. The replacement footbridge will not be constructed until the new access road has been provided in alternative. Pedestrian and vehicular access to Rose Lane cottages and the farmland to the south of the CFM will be maintained throughout the construction period. During construction of the footbridge, pedestrian access to Rose Lane cottages will be via the new access bridge.
- 57 Overall the Order scheme will improve access for those with rights to use the level-crossings. Grade separated access will remove risks associated with the use of level-crossings and will remove the need to wait for suitable crossing intervals; something which would worsen with the proposed increase in speed and frequency of train services.
- 58 Three construction compounds within the Order land would be required. Access would generally be taken from Common Lane, with traffic coming from the east or west, depending on the size of vehicle and its origin. The construction compounds would generally be accessed from new junctions and haul roads in the same location as the access road and tracks within the Order scheme itself. The compound at Rose Lane, one of the smaller compounds, associated with the replacement footbridge works and the track works would be accessed from a new junction, and this would be restored to current conditions on the completion of construction works.
- 59 Construction traffic access, and the effects of construction traffic on other users are to be managed through a Construction Traffic Management Plan (CTMP), to be secured through a proposed planning condition. It may be necessary to implement single-lane closures on Common Lane.

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<sup>13</sup> NR16, Appendix 5D

<sup>14</sup> NR36 Appendix D

- 60 NR intend to deliver bulk materials and heavy plant to the site and point of use by rail wherever possible but will also use the level-crossings as required. NR do not anticipate any conflict with farm-machinery movements, but can coordinate the use of the level-crossings as required.
- 61 Through the use of both the Code of Construction Practice (COCP) and the CTMP, the potential effects arising from constriction on traffic, transport, pedestrian and vehicle access will be managed and mitigated, such that suitable access will be maintained for residents, local businesses and crossing users during the construction of the Order scheme.

## **Matter 5. Compulsory purchase, the public interest and human rights**

- 62 The Order seeks authorisation to carry out works to deliver, and then operate, the Order scheme. The Order lands are required for that purpose, and to deliver track, line-speed and capacity improvements.
- 63 NR has set out the need for each plot of land covered by the Order, whether for compulsory purchase, temporary possession or acquisition of rights<sup>15</sup>. Detailed technical evidence on design, drainage, flooding and landscaping justifies the need for the land, both for delivery of the Order scheme and for the mitigation of environmental effects.
- 64 The draft Order includes sufficient land and rights to deliver the Order scheme, and where possible, provides clarity on land which is only required temporarily. In general NR will seek to minimise the amount of land to be permanently acquired. As detailed design develops it expects to be able to reduce the amount of land required for compulsory acquisition. It will not take more land than is required for delivery of the Order scheme, and will restrict itself to temporary possession or the acquisition of rights where this is sufficient to deliver the Order scheme. This approach to minimising land use will apply to temporary possession as well as to compulsory acquisition. The Order provides for compensation where land or rights are acquired and in relation to loss or damage suffered as a result of temporary use.
- 65 There is a compelling need for the Order scheme, and therefore a compelling case in the public interest for the acquisition of land, rights and powers of temporary possession required to deliver it.
- 66 The Order scheme enjoys the express support of government, and funding for it is committed. There are no remaining impediments to the delivery of the Order scheme beyond the making of the Order and the TCPA section 90 direction.
- 67 The purposes for which the Order is sought are sufficient to justify interference with rights protected by Article 1 of the First Protocol to the European Convention on Human Rights (ECHR).

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<sup>15</sup> NR33

## **Matter 6. Conditions proposed to be attached to the DPP**

68 Planning conditions proposed to be attached to the DPP have been written in collaboration with Selby District Council, now NYC. These have now been agreed with them, and an updated list, with typographical corrections, including to document references was provided to the inquiry<sup>16</sup>. NR has submitted evidence as to the need for the conditions, including reasons, and set out how they meet the tests in the National Planning Policy Framework (NPPF).

## **Matter 7. Any other matters**

### Response to OBJ01 – Mr Boddy

69 NR has provided a response to the matters raised by Mr Boddy in its evidence and the proofs of its witnesses, and most recently in a letter<sup>17</sup> in response to his latest concerns<sup>18</sup>.

70 NR have committed to inspect the drainage of Mr Boddy's land before and after completion of the works. NR will carry out any necessary remedial works, and can do so for up to five years after the opening of the bridge, giving ample time to identify the need for any remedial works.

### Response to OBJ02 – Mr Ronald Poulter

71 NR has provided a response to the matters raised by Mr Poulter in its evidence and the proofs of its witnesses.

72 Mr Poulter's request to move the new access road further to the west, away from Willow Farm New House, was not considered as a potential option during NR's option analysis process. However, it has been considered by NR subsequently. As explained in the evidence<sup>19</sup> such a move would place more of the raised elements of the Order scheme into Flood Zone 3, with attendant implications for flood-storage volume and water flows. It would also run contrary to the sequential approach for site selection and layout. Such a move would also bring the scheme further into the HS2 safeguarded area. This would conflict with the approach taken so far, to which HS2 have not objected, whereby NR have tried to minimise as far as possible the encroachment of the Order scheme into the safeguarded area. NR note the July 2023 commitment of the government to retain the safeguarding approach<sup>20</sup> until such time as alternative choices or approaches are confirmed.

73 In addition, there is no plan showing the proposed modification, no supporting assessment or design work, and there has been no public consultation. There is no formal modification available to be recommended

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<sup>16</sup> INQ09

<sup>17</sup> INQ13.2

<sup>18</sup> INQ13.1

<sup>19</sup> NR36, NR34, NR32, NR31

<sup>20</sup> INQ06

and the public interest and benefits of the Order scheme would be delayed were the Order not recommended to be made.

- 74 There has been extensive consultation with affected landowners and the wider public<sup>21</sup>, and none of the signatories to the letter of support appended to OBJ02's Proof of Evidence complain of a lack of liaison or communication. There has been no breach of the EIA Directive, as no EIA was required.
- 75 There has been no breach of Mr Poulter's human rights. To the extent that this part of the objection relates to the views from Willow Farm New House, there has been no failure, and the evidence makes it clear that those effects have been considered<sup>22</sup>. To the extent that this part of the objection relates to concerns over noise and vibration from the use of the new access road, this has been dealt with in evidence<sup>23</sup>, and in any case, given the relationship of the property to Common Lane and the likely level of use, it is not expected to result in any noticeable increase over the existing situation. The Order scheme would also result in the removal of, and cessation of, the current audible warning sounds associated with the level-crossings on the CFM line. As noted, construction effects would be controlled through the CTMP and COCP, required by planning condition.
- 76 There is no deficiency in the protected species information provided by NR, and its approach to changes in circumstances, particularly in relation to mobile species such as badgers, has been dealt with in the survey methodology<sup>24</sup> and can be appropriately managed and dealt with as works progress.
- 77 Following evidence at the inquiry, NR has sought to address concerns over the relationship of the construction compound to the use of land for grazing and access to barns within the Willow Farm New House complex. A letter of comfort<sup>25</sup> has been sent to Mr Poulter in that regard.

## **Conclusion**

- 78 NR respectfully request that the Order should be made so that much needed improvements to the NTPR can be delivered as scheduled.

## **THE CASE FOR THE SUPPORTERS**

### **SUP01 – Freightliner Group Ltd**

- 79 As a rail operator, Freightliner is aware of the importance of investment, and considers the infrastructure subject to the Order to be a constraint on the growth of the network around it. The Order scheme is integral to the delivery of the TRU, and Freightliner is fully committed to the successful, efficient and timely delivery of the TRU. The Order scheme is a critical part of levelling up and failure to carry it out would be a constraint to the rail service and

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<sup>21</sup> NR07

<sup>22</sup> NR37

<sup>23</sup> NR35, NR16

<sup>24</sup> NR16, NR10, INQ10

<sup>25</sup> INQ12

operation. The works are needed and critical to the delivery and success of the TRU.

#### **SUP02 – Northern Trains Ltd**

- 80 Northern Trains Ltd is supportive of the TRU programme, and the Order scheme is integral to the successful delivery of it. Failure to carry out the Order scheme would be a constraint to the rail service and operation. The works are needed and critical to the delivery and success of the TRU.

#### **SUP03 – Transpennine Express**

- 81 As a rail operator, Transpennine Express is aware of the importance of investment, and considers the infrastructure subject to the Order to be a constraint on the growth of the network around it. The Order scheme is integral to the delivery of the TRU, and Transpennine Express is fully committed to the successful, efficient and timely delivery of the TRU. The Order scheme is a critical part of levelling up and failure to carry it out would be a constraint to the rail service and operation. The works are needed and critical to the delivery and success of the TRU.

#### **SUP04 – P & J Squires**

- 82 Support the Order scheme following years of uncertainty since the level-crossing became manned and closure was proposed.

#### **SUP05 – Selby District Council**

- 83 Welcomes the application and fully recognises and supports the stated principles and outcomes. The Order scheme will facilitate safer crossing of the railway for all users, allow electrification, increased speeds, efficiency, reliability all as part of the TRU programme.
- 84 They make comments on noise, landscape, ecology, planning conditions, noting no objection on these grounds from internal consultees subject to the imposition of relevant planning conditions.
- 85 The Council is committed to assisting NR wherever possible in bringing forward investment. They understand disruption is inevitable, but are confident all issues can be resolved.

#### **SUP06 – J Rushby (previously REP02)**

- 86 Mr Rushby is pleased that a replacement footbridge has been included. The existing footbridge is well used for accessing the village and its facilities and if it were not replaced, walking times to the village would become unattractive.

## **THE CASE FOR THE OBJECTORS**

### **OBJ01 – Mr Jon Boddy**

- 87 Mr Boddy owns three parcels of land<sup>26</sup> affected by the Order. He is concerned that the drainage of and on his land would be damaged beyond repair by the Order works, and has concerns over the quality of any remediation or repair put in place by NR. He is also concerned about surface-water run-off rates and the condition of culverts and drains in the wider area, which would be affected by the Order works. He has also expressed concerns over tree and hedgerow loss, and the potential need for archaeological surveys.
- 88 He is concerned over the configuration of the new track layout and the potential for his land to be required for this.

### **OBJ02 – Mr Ronald Poulter**

- 89 Mr Poulter is the owner of the Willow Farm complex and resident at Willow Farm New House<sup>27</sup>. His land is required for the construction of the new highway, bridge, access track and construction compound.
- 90 Initially his objection included reference to the temporary use of plot 014 for access, although this matter has now been resolved through a commitment by NR not to use part of plot 014<sup>28</sup>. The substantive part of his remaining objection, presented at the inquiry relates to the location of the new highway and junction with Common Lane and its relation to his home, Willow Farm New House. He fears the disruption and noise from a new road so close to his property, which is unnecessary given there is other land to the west, in the same ownership which could take the road away from occupied properties. He suggests that the access road and bridge be relocated some 50m to the west, adjacent to the boundary of his land to Norwood, a currently vacant dwelling owned by HS2. He notes that were this house to be reoccupied in the future, it would be on the basis of the new access road already adjacent to it.
- 91 Mr Poulter does not object to the principle of the Order scheme, but to the proposed position of, and proximity to his residence of, the new access road. He considers that NR have not fully examined the possibilities of relocating the access road to the west as he suggests.
- 92 He considers that the submission of NR fails to comply with the 2006 Rules in that a true and accurate Environmental Statement has not been submitted.
- 93 He does not consider that the response of NR to his suggested alternative (that there are flooding issues and HS2 safeguarding issues associated with his preferred location) is sufficient, that the flood mitigation work can be carried out again, and that referring to HS2 safeguarding, for a scheme he describes as scrapped is simply a failure to engage with HS2.

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<sup>26</sup> References 012, 015 and 016; see NR08, NR09

<sup>27</sup> NR08, NR09

<sup>28</sup> 2 November 2022 letter, NR Reference 151666-TRA-E4-000-LTR-W-LP-000402

- 94 Mr Poulter notes that in any event, the Order scheme also infringes on the HS2 safeguarded area, and that his alternative proposal would place more of the overall proposal into Flood Zone 2 rather than Flood Zone 3.
- 95 The location of the access road so close to Willow Farm New House will impact on peace and quiet, and the visual impact of the road, embankment and bridge would severely impact views. The visualisations in the documents underplay the likely visual effects. All of this would be improved using his suggested alternative, which would further separate the road and bridge from Willow Farm New House, and would screen it behind existing vegetation at Norwood.
- 96 He considers that these effects would severely impact on rights protected under Articles 1 and 8 of the ECHR.
- 97 Mr Poulter also raises highway safety concerns over the location of the new junction with Common Lane and its proximity to residential and business accesses.
- 98 He has provided letters of support for his objection from Church Fenton Parish Council and from six local residents or business owners. These letters also refer to the relationship of the new junction to existing accesses, highway safety, landscape and visual effects and issues around the future farming of the land.
- 99 One of these letters is from a Mr Adamson, who currently has use of the Adamsons Level Crossing (the westernmost of the three level-crossings to be closed). He notes that the increased walking distance to access his farmland via the new bridge rather than via his level-crossing would be reduced by 100m were Mr Poulter's alternative location used. Mr Adamson is not a formal Objector to the Order.
- 100 During the inquiry, Mr Poulter also raised concerns over the effectiveness of protected species investigation and mitigation works and methods.

## **OTHER REPRESENTATIONS**

### **REP01 - H West and S Bowring**

- 101 Now withdrawn.

### **REP02 – J Rushby (now SUP06)**

- 102 See above.

### **REP03 – M and D Wheldrick**

- 103 They agree in principle with the Order scheme, but do not want a bridge due to the ecological impact and are concerned at Rose Lane becoming part of a circular route. They do not want the current bridge removed until the new road is opened.

**REP04 – I and S Hussey**

104 They have no objection in principle, but are concerned over the effect of the Order scheme on private rights.

**REP05 – Northern Powergrid**

105 Now withdrawn.

**REP06 – Environment Agency**

106 Now withdrawn.

**REP07 – Royal Mail Group**

107 Now withdrawn.

**REP08 – North Yorkshire County Council**

108 Now withdrawn following the completion of a Side Agreement.

**REP09 – B Jones**

109 Now withdrawn.

**REP10 – S Peacock**

110 Mr Peacock had no objection to the Order scheme but was concerned about the delivery of materials to site and the effect of any temporary road closures on roads in the area.

**REP11 – Mr and Mrs Ratcliffe**

111 Mr and Mrs Ratcliff made comments around street lighting and safety, flooding, tree removal, protection and replacement, and the accessibility of the new footbridge.

**INSPECTOR'S CONCLUSIONS**

112 I have considered the matters arising from the proposed TWA Order. I have based these conclusions around those matters on which the SoST particularly wishes to be informed, set out in the SoM and I have then set out my conclusions on the remaining objections and reached overall conclusions. Within this reasoning, I have also included consideration of the issues around the DPP as they are much the same. My conclusions on the issues raised in the SoM are set out below.

**Matter 1. The aims and objectives of, and need for the scheme**

113 There are no objections to the Order which question its aims, objectives or the need for it.

114 The aims, objectives and need for the Order scheme are clearly set out by NR. The Order scheme has a key part to play in the TRU, and that in turn has a key part to play in the NTPR. Delivering the TRU will enable the NTPR to meet the needs of passengers and train operators, improving capacity



and resilience, enabling the levelling-up agenda and contributing towards the northern powerhouse. The Order scheme will contribute towards this whilst protecting the access rights of those most affected by it and will improve the safety and convenience of their means of access across the CFM line. The Order scheme will improve the safety, reliability and resilience of one of the busiest stretches of railway line in the north of England, delivering substantial public benefits across the region.

## **Matter 2. Compliance**

- 115 Although OBJ02 has objected to the proposal on the basis of NR's perceived failure to submit an Environmental Statement, such a statement was not required for the Order application<sup>29</sup>. An ER<sup>30</sup> was nevertheless submitted.
- 116 NR have submitted a suite of documents around legal compliance<sup>31</sup>. Having reviewed it, the requirements in the Rules and the representations and objections, I am satisfied that all statutory procedural requirements have been complied with.

## **Matter 3. Main alternatives, reasons for choosing preferred option**

- 117 NR have set out in detail the alternative options they considered during the process which led to the submission of the Order application. I am satisfied that given the location of the Order scheme and the particular nature of its aims, there are no strategic alternatives to it. It would be unfeasible, impractical and unsafe to allow the level-crossings to remain open in light of the wider improvement works needed for the TRU.
- 118 Turning to the alternative scheme options considered by NR, it is clear from their consultation report<sup>32</sup> and the supporting technical work, that a range of options were considered, consulted upon and reviewed to consider their effects on local businesses, residents and crossing users, and to robustly assess them against other technical constraints, including safety and railway operational matters, engineering and design, as well as flood risk.
- 119 NR have not assessed the alternative proposal suggested by OBJ02 in as much detail as the Order scheme. However, I am satisfied that they have considered it in sufficient detail, and have demonstrated to my satisfaction that their decision to pursue the Order scheme is the appropriate one.
- 120 As set out above, the alternative proposed by OBJ02 would have a greater amount of above-ground development in Flood Zone 3, leading it to fail the Sequential and Exception tests. It would have a far greater infringement into the HS2 safeguarding area.
- 121 On that basis, I am content that the main alternative options considered by NR have been clearly set out, considered, and that the Order scheme is well justified.

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<sup>29</sup> NR10

<sup>30</sup> NR16

<sup>31</sup> INQ03

<sup>32</sup> NR07, NR18

#### **Matter 4. Likely impact on local businesses, residents and crossing users**

##### Landscape, including hedging and trees

- 122 The Order scheme would be visible to local businesses, residents and crossing-users. The replacement footbridge would be obviously different to the existing, and the new access road and bridge would be just that; new.
- 123 However, it is clear to me from the LVIA<sup>33</sup> conclusions, evidence at the inquiry, and my own site visit, that landscape and visual effects would not be unacceptable. As noted in the LVIA, in landscape terms effects would range from 'minor adverse' to 'no change' and in visual terms, effects would fall from a 'medium' magnitude of impact, down to a 'low' magnitude of impact, subject to the maturation of the planting and landscaping schemes.
- 124 The extremely limited amount of hedging and tree removal proposed would also limit the impact of the Order scheme. The measures proposed to be taken to record, protect and retain the majority of the hedging and trees in the Order area appear robust and I have no reason to doubt their likely effectiveness. In addition, there is a requirement, within the planning conditions to submit for approval, and then implement, a detailed Landscape and Ecological Management Plan.
- 125 As such, I am satisfied that the Order would not have an unacceptable impact on local businesses, residents or crossing users, with particular regard to landscape, including hedging and trees.

##### Impact on drainage and flooding

- 126 Detailed flood modelling work, set out in the FRA has established that despite being within Flood Zones 2 and 3, the Order scheme would be safe from flooding and would not increase flood risk elsewhere. NR has carried out an ST to establish that there are no reasonably available sites appropriate for the Scheme in areas with a lower risk of flooding. Detailed design and modelling shows that the particular relationship of the at-grade and above-ground elements of the Order scheme (i.e. the roads, embankments and elevated bridge-structure) have been located to have the least impact on Flood Zone 3, and to reduce the amount of flood compensation storage required.
- 127 The detailed modelling of the effects of the Order scheme, and the evolution of its design to that proposed, with a combination of embankments and the elevated flood alleviation structure, demonstrate that the Order scheme would not cause any greater flood risk elsewhere than already exists.
- 128 Turning specifically to drainage, the Order scheme proposes to largely mimic the existing drainage of the Order land. Detailed work and modelling shows that through the use of drainage detention basins and swales,

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<sup>33</sup> NR16, NR37

surface water generated by the Order scheme would be discharged to surrounding watercourses at the same rate as the current land-use and arrangements.

- 129 Measures are in place through the Order, and through specific letters of comfort to ensure that existing drainage features are protected and if necessary, replaced or repaired upon completion of the works.
- 130 The Order scheme drainage and flooding design and modelling have been approved by the Environment Agency and Lead Local Flood Authority. With regard to flooding and drainage, the Order scheme therefore satisfies planning requirements with regard to Sequential and Exception testing.
- 131 As such, I am satisfied that the Order would not have an unacceptable impact on local businesses, residents or crossing users, with particular regard to drainage and flooding.

#### Construction works on pedestrian and vehicle access

- 132 The phasing of the Order works and the wording of the Order itself mean that none of the level-crossings can be closed until such time as the new access road and new access track have been provided and are in use. There will be a short period where pedestrian access to the Rose Lane cottages will have to be taken via the new access road and bridge, whilst the footbridge is replaced. Whilst this is unfortunate, and will lengthen the pedestrian route to Church Fenton, it is not a permanent change, and there is no suggestion that it is otherwise an unacceptable impact. As the footbridge will be a replacement, there is no reasonably practical alternative to this.
- 133 There is likely to be a need for temporary traffic management on Common Lane, particularly in association with works to the new access road junction, and the provision of the construction compound on Rose Lane. This is not unusual.
- 134 Access to properties on Common Lane and the Rose Lane cottages will be maintained whilst the Order scheme works are carried out. Similarly, NR have committed to ensuring that access across Poulter's Level Crossing, which will be used for construction purposes, will not cause conflict with farm machinery movements. HGV movements and deliveries are to be managed through the submission, approval and implementation of both a CTMP and COCP, controlled through planning conditions. NR are committed to delivering as much material as possible to the site and compounds by rail.
- 135 The new access road is to be built to an adoptable standard, and it is anticipated that it will be adopted by the local highway authority upon completion, creating a right of way over it. No public right of way will however be created over the replacement footbridge, so it will remain private, as it currently is.

- 136 I therefore consider that subject to the commitments set out in their application and the conditions proposed for the DPP, construction works associated with the Order would not have an unacceptable impact on local businesses, residents or crossing users, with particular regard to pedestrian and vehicle access.
- 137 Overall, I find that the exercise of the powers in the proposed Order would not have any unacceptable impacts on local businesses, residents or crossing users. Construction effects would be temporary, landscape and visual effects would reduce over time, yet the Order scheme would lead to a marked and material increase in safety and convenience for those wanting and needing to cross the CFM.

#### **Matter 5a. Whether a compelling case in the public interest**

- 138 In bringing about the identified improvements to the NTPR, through delivery of the TRU, the Order scheme would contribute to the delivery of economic, social and environmental benefits for the whole of the region. There is a clearly made, and compelling need for the Order scheme.
- 139 On this basis and in the absence of clear evidence to the contrary I find that there is a compelling case in the public interest for the compulsory acquisition of land and rights. Moreover, NR has provided clear justification of the need for the land to be acquired.

#### **Matter 5b. Whether the purposes are sufficient to justify interfering with the human rights of those with an interest in the land**

- 140 Based on the compelling case in the public interest for compulsory acquisition, interference with the rights of those with an interest in the land affected is justified. The interference with Article 1 of the First Protocol of the Human Rights Act is engaged and having taken account of the public and private interests involved the case for compulsory acquisition has been made. The need for the TRU is clear and the benefits are considerable. The interference with the Article 1 rights is proportionate, lawful, limited in extent and mitigated as far as possible. Where acquisition is necessary compensation will be payable in accordance with the compensation code.

#### **Matter 5c. Likely impediments**

- 141 The Order scheme is supported by the government as part of the TRU programme. Funding is in place to implement it. Natural England have confirmed that they see no reason not to grant a European Protected Species Licence for the works affecting the common pipistrelle.
- 142 As such, I find that there are no likely impediments to NR exercising the powers contained within the Order.

#### **Matter 5d. Whether all of the land and rights is necessary**

- 143 Justification is provided for the inclusion of each individual plot required to implement the Order scheme including the purpose for each plot, whether it is for permanent works, temporary works or for rights to be secured to

provide alternative utility apparatus. No evidence has been provided that any land take or rights sought is excessive or unnecessary, and letters of comfort have been provided to address particular plots and circumstances of their use. NR has committed to minimising the amount of land to be permanently acquired and will restrict itself to temporary use or acquisition of rights over land where those are sufficient to deliver the Order scheme.

- 144 The land and rights over land which NR has applied for are therefore necessary to implement the scheme.

#### **Matter 6. Conditions proposed to be attached to the DPP**

- 145 I have been provided with a list of suggested planning conditions to attached to the DPP. These conditions have been produced in consultation with Selby District Council (now NYC) and agreed by them. I consider that the conditions, which relate to compliance with the approved drawings, development staging, landscaping and ecology, construction practice, traffic and travel, materials, means of enclosure, land contamination, biodiversity net-gain and archaeology are necessary, relevant to planning and to the development to be permitted, enforceable, precise and otherwise reasonable. There is policy support for, and need for the conditions, and clear links between matters raised in consultation and the conditions.
- 146 NR has agreed to the pre-commencement conditions listed. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development.
- 147 I am therefore satisfied that these conditions meet the tests in, and requirements of the NPPF.

#### **Matter 7. Any other matters**

- 148 There was much discussion at the inquiry, and reference in the objection of Mr Poulter to the issue of HS2 safeguarding, and in particular around the relationship of the proposed access road to it. NR state that the Order scheme has the smallest possible interface with the HS2 safeguarded area, that HS2 were consulted on the Order scheme and raised no objection to this, and that in any event, safeguarding is a management and protection tool, not a prohibition on development.
- 149 Mr Poulter suggests that if the level of intrusion of the Order scheme into the safeguarded area is acceptable, then the much greater intrusion which his proposed alternative location would lead to<sup>34</sup> must also be acceptable. He also states that this leg of HS2 has been scrapped and the safeguarding should be removed.

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<sup>34</sup> NR32, fig 20

- 150 It is clear to me from the evidence of NR, and indeed, email exchanges submitted by Mr Poulter, that HS2 are satisfied with the relationship of the Order scheme to the safeguarded area. It is also clear to me that in spite of reporting around the future of HS2, the government is fully committed to providing better rail connectivity, set out in the Integrated Rail Plan, and as part of this, is making a holistic assessment of future rail capacity needs in this area. As a result, the government has, as recently as July 2023<sup>35</sup> stated that safeguarding will remain on the full eastern-leg route for HS2 until such time as it can definitively confirm any alternative choice or whether any part of the safeguarded route is still needed.
- 151 Given the status therefore of the HS2 safeguarding, the minimal interface between it and the Order scheme, and the lack of objection, I conclude that the Order scheme has an appropriate and acceptable relationship with HS2 safeguarding.
- 152 The Order application also includes a request for DPP. I have had regard to the assessment of the proposal<sup>36</sup> against the development plan, including policies in the Selby District Core Strategy Local Plan, saved policies in the Selby District Local Plan 2005 and policies in the Minerals and Waste Joint Plan 2022. I have also had regard to government policy in the NPPF, as well as national and local transport policy.
- 153 The site lies within the South and West Yorkshire Green Belt where inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, as the Order scheme is for local transport infrastructure, which can demonstrate a requirement for a Green Belt location, it is not inappropriate development provided it would preserve the openness of, and not conflict with the purposes of including land within the Green Belt. Given my conclusions on the landscape and visual effects of the Order scheme, including the LVIA evidence, I am satisfied that the Order scheme would preserve the openness of the Green Belt, and would not conflict with the purposes of including land within it. The Order scheme is not therefore inappropriate development in the Green Belt.
- 154 Having taken into account the effects of the proposal, I am satisfied that it complies with the development plan in respect of design, effect on agricultural soil quality and land, biodiversity, climate change matters, landscape and visual impact, noise and vibration, traffic and transport, waste and minerals, the water environment, and any effects on amenity.
- 155 I also note the alignment of the Order scheme with the presumption in favour of sustainable development at the heart of the NPPF with regard to improving public transport in the area and delivering the economic and social benefits which flow from that.

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<sup>35</sup> INQ06

<sup>36</sup> NR13, NR18, NR34

## **The objections**

156 I have carefully considered the remaining objections to the Order. In this respect I have dealt with most of the issues raised in addressing those matters specified in the SoM above.

### **OBJ01 – Mr Boddy**

157 Regarding Mr Boddy's objection I am satisfied that the drainage proposals have been scrutinised in detail; during the development of the Order scheme by relevant experts and consultees and explained in detail at the inquiry. In light of that, plus the letters of comfort from NR to Mr Boddy, I am satisfied that his objection and concerns have been appropriately dealt with and can and will be addressed by NR as the Order scheme progresses.

### **OBJ02 – Mr Poulter**

158 Regarding Mr Poulter's objection, as set out above, I am satisfied that all statutory procedural requirements have been complied with, and the Order scheme did not require an Environmental Statement.

159 I note his desire to see NR fully consider his proposed alternative in order for me to compare the two. However, NR have set out clear reasons for their choices and the scheme they have applied for, and in doing so made clear why his proposed alternative is not suitable or practical. They have also addressed his alternative in detail during the inquiry. I am not convinced that it would secure the benefits he ascribes to it, particularly in relation to screening in long views from the west (from where the Order scheme is already screened by existing vegetation), highway safety (to which there are no objections) or a shorter journey for one farmer weighed against a longer journey for residents of the Rose Lane cottages.

160 I note the Parish Council support for his objection and proposed alternative, but do not find the sentiment within it is borne out or otherwise supported by the consultation exercise (NR7) or indeed, representations or objections to the Order application before me.

161 I accept that views from Willow Farm New House would be different to existing, and that there is a very slightly different view from the house than from the viewpoint assessed in the LVIA. However, I do not consider the viewpoint to be so different that the conclusions on visual effects assessed from it are so substantially different to those from Willow Farm New House, such that there would be any unacceptable visual effect on Mr Poulter. I also accept that landscaping takes time to mature.

162 Specifically concerning the potential for increased noise and disturbance, I note that Willow Farm New House already faces onto Common Lane, a public highway, with windows front and back. To the side, towards the new junction and access road, there is a small area of side-garden, then a substantial hedge. The proposed access road is then within that field, some distance from the house. Given the limited amount of traffic and use that the new access road would be expected to see (limited to access for the Rose Lane cottages and the movements associated with the Poulter's and

Adamsons level-crossings), I do not consider that the use of the road would cause an unacceptable amount of noise and disturbance. I note also, as set out above, that the Order scheme, and specifically the removal of the level-crossings, would reduce the number of audible warnings associated with them.

- 163 Mr Poulter's concerns over badgers are noted, and there is sufficient coverage in the proposed survey methodology, protected species and ecology requirements to ensure that they are protected as appropriate. His further specific concerns over access to Plot 11 for grazing and access have been addressed in a letter of comfort from NR<sup>37</sup>, and are addressed long-term in NR's approach to permanently acquiring the minimum amount of land possible, noting that Plot 11 is required largely for the construction compound, which will be temporary, and for an overhead line diversion, which will take only a small part of the plot.
- 164 I have considered above whether the purposes for which compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected. As set out, these rights are qualified rights, and interference with them is permissible where there is a clear legal basis and it is necessary in a democratic society. Notwithstanding my conclusions that the Order scheme, particularly with regard to noise, disturbance and visual effects would not have an unacceptable impact on Mr Poulter, any interference with his human rights is limited and proportional to the public end sought to be achieved by the Order.
- 165 Overall therefore, whilst I can understand Mr Poulter's objection to the Order scheme, I do not find that it is so substantial, or that the matters of detail it raises are such that the Order scheme is otherwise unsuitable or would have unacceptable effects upon him. In this, I also note that he does not object to the principle of the Order scheme.

### **Overall conclusions**

- 166 Having considered all of the relevant matters raised, and those on which the SoST specifically directed that they wished to be informed above, I find that none of them are sufficient to prevent the Order from being made.
- 167 In the light of the above, I conclude that the Order is justified on its merits and that there is a compelling case in the public interest for making it, with clear evidence that the substantial public benefits from the public transport improvements and economic development, would outweigh the extremely limited private harm due to private losses. It would accord with relevant, national, regional and local policies. There is significant support for the TRU and outstanding issues raised in representations are subject to ongoing dialogue with NR. Funding is available for the project and there are no significant impediments to its implementation. Consequently, there is a reasonable prospect of it going ahead without delay.

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<sup>37</sup> INQ12



168 There is no alternative Order scheme before me, nor are any modifications to it proposed.

## **RECOMMENDATIONS**

### **The Network Rail (Church Fenton Level Crossing Reduction) Order 202[x]**

169 Having regard to all of the above, I recommend that the Order, (subject to the corrections in the version handed up during the inquiry (INQ11.2)) be made.

### **Deemed Planning Permission**

170 I also recommend that the application for deemed planning permission should be granted subject to the suggested conditions, set out in Appendix E to this report.

*S Dean*

INSPECTOR

## **APPENDIX A - APPEARANCES**

FOR NETWORK RAIL:

Jacqueline Lean,  
Counsel, instructed by Winckworth Sherwood LLP, called;

David Vernon BA (Hons) Dip TP, Senior Sponsor for Network Rail, Carter Jonas  
Michael Westwood BSc (Hons), Principal Engineer (Level Crossings), Systra  
Carl Pelling BSc (Hons) MSc MCIWEM, Technical Director (Water), AECOM  
Rebecca Condillac BA (Hons) Grad Dip CMLI, Associate Director, AECOM  
Alex Davies BSc (Hons), Head of Consents and Environment Planning, NR  
Emma Foster BA (Hons) MA MRTPI, Town Planner, NR  
Benjamin Thomas BSc MSc MRICS, Partner, Carter Jonas

FOR OBJ02, MR RONALD POULTER:

Mr Charles Poulter  
Mr Stuart Hillard  
Mr Andrew Mason, Chair of Church Fenton Parish Council

## **APPENDIX B - DOCUMENTS SUBMITTED DURING THE INQUIRY**

INQxx

- 01 Amended draft Order (8 August 2023) – tracked changes version
- 02 Amended draft Order (8 August 2023) – clean version
- 03 Legal Compliance file
- 04 Opening statement for Network Rail
- 05 Opening statement for Mr Poulter (his statement of case)
- 06 DfT Policy paper 'HS2 to Leeds Study terms of reference, 17 July 2023
- 07 Updated Landscape and Ecological Mitigation Proposals Plan (151666-TRA-91-CFM-REP-W-EN-000015, Rev P05
- 08 Natural England letter of comfort regarding draft licence application, 4 August 2023
- 09 Supplementary note relating to planning conditions
- 10 Technical note relating to badger setts
- 11.1 Amended draft Order (10 August 2023) – tracked changes version
- 11.2 Amended draft Order (10 August 2023) – clean version
- 12 Network Rail letter to Mr C Poulter 10 August 2023
- 13.1 Mr Boddy letter to DfT TIPU 4 August 2023
- 13.2 Network Rail letter to Mr Boddy 10 August 2023
- 14 Closing statement of Mr Poulter
- 15 Closing statement of Network Rail
- 16 Correspondence file

## **APPENDIX C - CORE DOCUMENTS**

NRxx

- 01 Document Schedule
- 02 Draft Order
- 03 Explanatory Memorandum
- 04 Statement of Aims
- 05 Funding Statement
- 06 Estimate of Costs
- 07 Consultation Report
- 08 Book of Reference
- 09 Works and Land Plan
- 10 Screening decision
- 11 Rule 18 Waiver
- 12 Request for Deemed Planning Permission and Statement of Proposed Conditions
- 13 Planning Statement
- 14 Planning Drawings 01-12
- 15 Design and Access Statement
- 16 Environmental Report
  - Volume 1 – Main Text
  - Volume 2 – Figures
  - Volume 3 – Appendices
- 17 Code of Construction Practice
- 18 Statement of Case
- 19 Decision Letter for Huddersfield to Westtown Improvements Order
- 20 Signalling Design Module X01 Level Crossings General
- 21 Signalling Design Module X40 Level Crossings Miniature Stop Lights
- 22 Commitment letter to SDC
- 23 Commitment letter to NYC
- 24 Network Rail Transforming Level Crossings 2015-2040
- 25 ORR Health and Safety Strategic Risk Chapter 4 Level Crossings
- 26 Levelling Up the United Kingdom White Paper
- 27 Integrated Rail Plan for the North and Midlands 2021
- 28 The National Infrastructure Delivery Plan
- 29 Transport for the North Strategic Transport Plan
- 30 National Planning Policy Framework
- 31 Proof of Evidence – Needs Case
- 31A. Summary – Needs Case
- 32 Proof of Evidence – Engineering and Design
- 32A Summary – Engineering and Design
- 33 Proof of Evidence – Property
- 33A Summary – Property
- 34 Proof of Evidence – Planning
- 34A Summary – Planning
- 35 Proof of Evidence – Environmental Management
- 35A Summary – Environmental Management
- 36 Proof of Evidence – Flood Risk
- 36A Summary – Flood Risk
- 37 Proof of Evidence – Landscape and Visual Amenity

- 37A Summary – Landscape and Visual Amenity
- 38 Decarbonising Transport – A Better, Greener Britain
- 39 Traction Decarbonisation Network Strategy
- 40 Connecting people: a strategic vision for rail
- 41 Enhancing Level Crossing Safety 2019-2029
- 42 ORR Principles for Managing Level Crossing Safety
- 43 ORR Strategy for Regulation of Health and Safety Risks
- 44 ORR Level Crossings – A Guide to Managers, Designers, Operators
- 45 National Infrastructure Strategy
- 46 Inspector Report for Huddersfield to Westtown Improvements Order
- 47 DfT Rail Network Enhancement Pipeline 2018
- 48 DfT Rail Network Enhancement Pipeline 2019
- 49 North Yorkshire Local Transport Plan
- 50 West Yorkshire Transport Strategy 2040
- 51 Leeds City Region Strategic Economic Plan
- 52 Selby District Core Strategy October 2013
- 53 Selby District Local Plan February 2005 Saved Policies
- 54 Selby District Council Local Plan Publication Version Consultation 2022
- 55 Part 18 of The Town and Country Planning (General Permitted Development) (England) Order 2015
- 56 National Policy Statement for National Networks 2014
- 57 Letter from Selby District Council to TIPU 5 October 2022
- 58 Minerals and Waste Joint Plan 2015-2030, Adopted February 2022

## **APPENDIX D – CONTRIBUTORS**

### **SUPPORTERS**

SUPxx

- 01 Freightliner Group Limited
- 02 Northern Trains Limited
- 03 Transpennine Express
- 04 P & J Squires
- 05 Selby District Council
- 06 J Rushby

### **OBJECTORS**

OBJxx

- 01 Mr Jon Boddy
- 02 Mr Ronald Poulter

### **OTHER REPRESENTATIONS**

REPxx

- 01 Helen West and Steve Bowring
- 02 John Rushby
- 03 Mark and Darlene Wheldrick
- 04 Mr Hussey and Ms Worrell
- 05 Northern Powergrid
- 06 Environment Agency
- 07 Royal Mail
- 08 North Yorkshire Council
- 09 Barry Jones
- 10 Simon Peacock
- 11 Mr and Mrs Ratcliffe

## **APPENDIX E - RECOMMENDED CONDITIONS TO BE ATTACHED TO DEEMED PLANNING PERMISSION**

### **Interpretation**

In the following conditions—

"the Code of Construction Practice" means the code of construction practice to be submitted to and approved by the local planning authority under condition 5 (code of construction practice), a draft of which (known as "Part A") accompanies the Environmental Assessment Report;

"the development" means the development authorised by the Order;

"the Environmental Assessment Report" means the environmental information submitted with the application for the Order on 28th July 2022;

"the local planning authority" means Selby District Council until 31st March 2023; thereafter the planning authority will be the North Yorkshire Council;

"Network Rail" means Network Rail Infrastructure Limited;

"the Order" means The Network Rail (Church Fenton Level Crossing Reduction) Order 202[X];

"the Order limits" has the same meaning as in article 2 (interpretation) of the Order;

"the planning direction drawings" means the drawings listed in Appendix 3 to the request for deemed planning permission dated 28th July 2022;

"preliminary works" means environmental (including archaeological) investigations, site or soil surveys, ground investigations and the erection of fencing to site boundaries or the marking out of site boundaries; site clearance and de-vegetation; and the erection of contractors' work compounds, access routes and site offices

"the railway" means the railway comprised in the development;

The "site" means land within the Order limits;

"SDCS" means the Selby District Core Strategy 2013

"SDLP" means the Selby District Local Plan 2005

### **Conditions**

#### **1. TIME LIMIT FOR COMMENCEMENT OF DEVELOPMENT**

The development hereby permitted must commence before the expiration of five years from the date that the Order comes into force.

*Reason: To ensure that development is commenced within a reasonable period of time.*

## 2. IN ACCORDANCE WITH THE PLANNING DIRECTION DRAWINGS

The development must be carried out in accordance with the planning direction drawings unless otherwise agreed in writing by the local planning authority.

*Reason: To ensure that the development is carried out in accordance either with the consented design or such other design details as have been subjected to reasonable and proper controls.*

## 3. STAGES OF DEVELOPMENT

No development (including preliminary works) is to commence until a written scheme setting out all the stages of the development has been submitted to and approved in writing by the local planning authority. Variations to the approved stages of development may be submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in accordance with the approved stages of development. Written notification shall be given to the local planning authority of commencement within each stage, not later than 21 days following commencement within the respective stage.

*Reason: To identify the individual stages for the purposes of these conditions.*

## 4. LANDSCAPING & ECOLOGY

No development within the relevant stage (including preliminary works) is to commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The approach to the LEMP should be in broad accordance with plan 'Outline Landscape and Ecological Mitigation Proposals' (Figure 6.5) Ref 151666-TRA-91-CFM-REP-W-EN-000015 Revision P05 and the details set out within Network Rail's Letter of Commitment dated 4th October 2022 (Ref 151666-TRA-E4-000-LTR-W-LP-000354).

- a) The proposed LEMP for each stage will include the following details:
- i) An Arboricultural Method Statement (to BS5837:2012); to comprise works and recommendations, as set out in Environmental Report NR16 Chapter 12 Arboriculture (including all mitigation and details as set out in chapter 12.6).
  - ii) Those trees and hedgerows shown to be retained in Environmental Report NR16 Chapter 12 Arboriculture 'Tree Protection Plans' Figures 12.2 (four sheets), shall be retained.
  - iii) A plan of ecological mitigation details including areas of new plantings and details of any habitats created or enhanced.
  - iv) Implementation timetable and a programme for initial aftercare, long term management and maintenance responsibilities for a period of 5 years post-completion for landscape purposes.
  - v) Details of organisation(s) responsible for maintenance and monitoring.

b) The LEMP must reflect the survey results and ecological mitigation and enhancement measures set out in the Environmental Report (Chapter 8 Biodiversity), and must also include the following ecological measures:

- i) The aims and objectives of the management to be undertaken.
  - ii) A programme of monitoring with thresholds for action as required
  - iii) Full details of measures to ensure protection and suitable mitigation to all relevant protected species
- c) The LEMP must include both hard and soft landscaping works, covering the locations where landscaping will be undertaken, and must also include the following details:
- i) Full detailed landscape plans indicating full planting specification, including layout, species, number, density and size of trees, shrubs, plants, hedgerows and/or seed mixes and sowing rates, including extensive use of native species;
  - ii) Any structures, such as street furniture, any non-railway means of enclosure and lighting;
  - iii) Any details of regrading, cut and fill, earth screen bunds, existing and proposed levels;
  - iv) Any areas of grass turfing or seeding and depth of topsoil to be provided;
  - v) A timescale for the implementation of hard landscaping works;
  - vi) Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fail or become diseased within the first five years initial aftercare period from completion; and
  - vii) Details of protective measures for retained trees.

The measures within the LEMP must be implemented in accordance with the approved details.

*Reason: In order to provide effective screening and landscaping to protect the character and appearance of the surrounding open countryside and Green Belt having had regard to Policy ENV1 of the SDLP, Policies SP3, SP15 and SP19 of the SDCS and the National Planning Policy Framework (July 2021). This is to secure the correct implementation of the measures identified in the Environmental Report.*



## 5. CODE OF CONSTRUCTION PRACTICE

a) No part of the development (including preliminary works) is to commence until a Code of Construction Practice (CoCP) Part B, including the relevant plans and programmes referred to in (b) below (which incorporates the means to mitigate the construction impacts identified by the Environmental Report), has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt this does not include approval for Part A of the CoCP (a general overview and framework of environmental principles and management practice to be applied to the scheme along with all construction-led mitigation identified in the Environmental Report) which has been submitted as part of the Order.

b) Part B of the CoCP (as defined at paragraph 3.3.5 in Environmental Report NR16 Volume 1) must include the following plans and programmes:

- i. An external communications programme
- ii. A pollution prevention and incident control plan
- iii. A waste management plan
- iv. A materials management plan including a separate soils mitigation plan
- v. A nuisance management plan concerning dust, wheel wash measures, air pollution and temporary lighting; and
- vi. A noise and vibration management plan including a construction methodology assessment

The development must be implemented in accordance with Parts A and B of the approved CoCP, along with the relevant plans or programmes, unless otherwise agreed in writing with the local planning authority. The approved CoCP (parts A and B) shall be implemented in full throughout the period of the works.

*Reason: To mitigate expected construction impacts arising from the development and to protect local and residential amenity and to ensure the development is carried out in accordance with Policies ENV1 and ENV2 of the SDLP and SP18 and SP19 of the SDCS.*

## 6. CONSTRUCTION TRAFFIC MANAGEMENT & TRAVEL PLAN

a) No part of the development (except preliminary works) is to commence until a Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the local planning authority. The CTMP must include:

- i. the package of interventions and mitigation outlined in the Environmental Assessment Report including an implementation timetable for each stage;
- ii. a travel plan for construction staff outlining the methods by which they shall be transported to the relevant sites and including the provision of non-motorised facilities to encourage walking and cycling;
- iii. Details on temporary diversions of both highways and rights of way required as part of the Scheme.
- iv. A Traffic and HGV Routing Plan for construction traffic and a method statement for how this will be communicated with any contractors.
- v. The construction of each stage of the development must be carried out in accordance with the approved CTMP unless otherwise agreed in writing with the local planning authority.

b) The construction must be carried out in accordance with the approved CTMP unless otherwise agreed in writing with the local planning authority.

*Reason: To protect public amenity and highway safety and in accordance with Policies ENV1, T1, T2 and T8 of the SDLP and Policies SP15 and SP19 of the SDCS.*

## 7. MATERIALS

Before the commencement of any works in respect of structures listed below, samples and specifications of all materials to be used on all their external elevations must be submitted to and approved in writing by the local planning authority:

- i) Highway Bridge
- ii) Footbridge

The development must be constructed in accordance with the approved details and thereafter retained unless otherwise agreed in writing with the local planning authority.

*Reason: In the interests of visual amenity and to ensure the proposals respect the character of the open countryside and the Green Belt in accordance with Policy ENV1 of the SDLP, Policies SP3 and SP19 of the SDCS.*

## 8. MEANS OF ENCLOSURE

No later than 6 months after the commencement of the works, details of all new permanent means of enclosure for the new road and residents' car parking area must be submitted to and approved in writing by the local planning authority. The approved means of enclosure must be erected in full in accordance with the approved details and retained thereafter unless otherwise agreed in writing with the local planning authority.

*Reason: In the interest of public safety and visual amenity and to ensure that the proposals respect the character of the open countryside and do not compromise the openness of the Green Belt in accordance with Policy ENV1 of the SDLP, Policies SP3 and SP19 of the SDCS.*

## 9. UNEXPECTED CONTAMINATED LAND

In the event that visual or olfactory evidence of contamination not previously encountered in the intrusive ground investigation is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV2 of the SDLP and Chapter 15 of the NPPF (July 2021)*

## 10. BIODIVERSITY NET GAIN

Before the Order scheme commences (excluding preliminary works) a strategy to achieve an overall 10% net gain in biodiversity for the development, including monitoring, maintenance, management and reporting arrangements, must be submitted for approval in writing by the local planning authority. The strategy shall include a monitoring and maintenance schedule covering a period up to 30 years in compliance with the Biodiversity Metric 3.0- User Guide & Technical Supplement. From the first opening of the road bridge to vehicles measures to achieve an overall 10% net gain in biodiversity for the development (assessed in accordance with the 2021 Department for Environment, Food & Rural Affairs biodiversity metric 3.1) shall be implemented in accordance with the approved strategy.

*Reason: In order to provide biodiversity net gain having had regard to Policy ENV1 of the SDLP, Policy SP18 of the SDCS and the NPPF (July 2021).*

## 11. ARCHAEOLOGY

A) No demolition/development within the relevant stage shall take place/commence until a programme of archaeological work for that stage including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- i. The programme and methodology of site investigation and recording
- ii. The programme for post investigation assessment
- iii. Provision to be made for analysis of the site investigation and recording
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- v. Provision to be made for archive deposition of the analysis and records of the site investigation
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No demolition/development within the relevant stage shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

*Reason: To ensure that the significance of the historic environment is properly assessed and preserved and to ensure that the development is carried out in accordance with paragraphs 189 and 199 of the National Planning Policy Framework (2021), and policy ENV 28A, 28B & 28C of the Selby Local Plan.*

## 12. APPROVAL AND IMPLEMENTATION UNDER THESE CONDITIONS

Where under any condition the Local Planning Authority may approve amendments to details submitted and approved, such approval must not be given except in relation to changes where it has been demonstrated to the Local Planning Authority that the approval sought is unlikely to give rise to any materially new or materially different adverse environmental effects from those assessed in the Environmental Assessment Report.

*Reason: To provide for certainty in the approvals and implementation process and in the interests of proper planning*