

The Secretary of State for Transport,  
c/o Transport Infrastructure Planning Unit,  
Department for Transport,  
Great Minster House,  
33 Horseferry Road,  
London,  
SW1P 4DR

Date: 30 June 2021

Our ref: 143170.001

Direct tel: 07788 312 424

E-mail: david.strafford@gateleyhamer.com

**By email to [transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk)**

Dear Sir,

***The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006***  
***Kinder Properties Limited Statement of Case in relation to The Network Rail***  
***(Huddersfield to Westtown (Dewsbury) Improvements) Order***

We act for Kinder Properties Limited ("Kinder"), freehold owner of the Castlegate Retail Park, Huddersfield.

Kinder is the owner and Landlord of the Castlegate retail park. The retail park is located on the northern edge of Huddersfield town centre at the junction of the Castlegate Ring Road and St John's Road. The complex comprises six retail units totalling approximately 22,000ft<sup>2</sup>. Units A and B have a dual frontage on to St John's Road and the rear private carpark, whilst units 1,2,3 and 4 are accessed solely from the private carpark (see Kinder Statement of Case Attachment 1 - Schematic and Serial Views).

The retail park is broadly triangular in shape with the units arranged around two sides, and the railway viaduct that is to be the subject of the Network Rail improvement scheme, along the third side. A 61 space private dedicated carpark is bounded by the retail units and the viaduct. The carpark is maintained by Kinder as Landlord under the service charge provisions of the retail occupiers' leases.

A single point of access (entry only) to the car park is located in the north west corner of the complex from St John's Road. A single point of egress (exit only) is located at the southern point of the triangle exiting on to Fitzwilliam Street, immediately abutting the viaduct arch being Network Rail Bridge MVL3-92.

Both Fitzwilliam Street and St John's Road are subject to double yellow line parking restrictions and all servicing of the retail units is from the private carpark.

This statement of case should be read in conjunction with our letter to you of 13<sup>th</sup> May 2021 (see Kinder Statement of Case Attachment 2 – Letter of Objection 13 May 2021), in which we wrote setting out Kinder's concerns regarding a lack of clarity and understanding as to the detail and likely impact of the proposed Network Rail scheme on its retail park.

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29 East Parade,  
Leeds LS1 5PS  
0113 261 6899

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All of the points of concern to our client relate to the extent, duration and impact of the engineering works during the construction phase of the proposed scheme.

As we have previously stated, our client does not oppose the principle of the proposals underlying the scheme, however it is essential that we have a full and thorough understanding of the nature, impact and duration of the works and the extent of the Castlegate retail carpark to be occupied. As we have already stated the retailers are entirely dependent on the car park for the servicing the units.

Subsequent to our letter to you of 13<sup>th</sup> May 2021 objecting to the scheme further dialogue has been had with Network Rail who are seeking to address our points of concern. However regrettably to date we have still not received the level of detail and understanding to enable us to withdraw our objection.

Turning now to the points raised in our letter to you of 13<sup>th</sup> May 2021, we would like to comment further as follows:

1. We have been provided with a copy of a second notice (see Kinder Statement of Case Attachment 3: NR Copy Notices) that Network Rail allege to have been served on the same day and to the same address care of my client's solicitor, Walker Morris LLP in Leeds, dated 31 March 2021. We have checked again with our client and they have confirmed that only the one notice relating to the four plots 4-020, 4-041, 4-046 and 4-049 was received. Regrettably we are informed by Network Rail that the notices were sent by first class post and not recorded or registered, which would have perhaps better ensured safe and proper delivery of the notices.

The second notice alleged to have been served appears to omit the right to extinguish rights over land but is otherwise on like terms to the notice that was received. The second notice relates not only to the missing plots that are set out in the Order Book of Reference, but curiously also the four plots that were subject to the single notice that was received.

Notwithstanding the confusion, we now at least have confirmation that all of the plots set out in the Order Book of Reference are to be occupied for the scheme.

2. The requested clarification as to the nature and duration of any permanent or temporary land take(s) required for the scheme is still awaited. Having spent a significant amount of time reviewing the Book of Reference, Schedule, the TWAO associated plans and other documents available on Network Rail's website I have been unable to determine exactly how much of the carpark will be required, when and for how long. We have been verbally informed that 'about half' of the car park will be required and that the works must be completed by the end of April 2024.

We have requested plans showing the areas to be occupied and unavailable to the tenants. We have also requested details as to whether the areas to be exclusively occupied by NR's contractor are likely to change and if so to provide phasing plans with the relevant details.

3. We still await clarification as to the nature of the proposed permanent vehicle protection measures that are referred to on Drawing Number 151667-TSA-30-MVL3-DRG-T-LP-163100 and the impact of the same on the exit to the carpark (see Kinder Statement of Case Attachment 4 -151667-TSA-30-MVL3-DRG-T-LP-163100).


4. We are informed that no discussions have yet taken place between Network Rail and Kirklees Council's highways department and there is therefore no certainty that the amended entry and exit arrangements to the retail park, being proposed by Network Rail will be acceptable to the highway authority (see Kinder Statement of Case attachment 5 – Castlegate Retail Park Access and Egress). At the point of writing this letter the concerns that are set out at point 5 of our 13<sup>th</sup> May 2021 letter to you remain unaddressed. Given this fact and the fundamental importance of the carpark to all of the Castlegate retail park occupiers, we question whether serving the Rule 15 notices in advance of such important stakeholder consultations was premature.

We are informed that a meeting has been arranged for Network Rail to discuss the carpark access arrangements with Kirklees highways on Thursday 1<sup>st</sup> July. Whilst we are hopeful that progress will be made, the deadline for our submitting this statement of case was such that we feel it unwise to delay its submission.

The retail sector has been under considerable pressure in recent years which has been exacerbated by the Covid-19 pandemic. Our client's property has not been immune to this and at the time of writing the complex is not fully let, and other leases will be coming up for renewal within the Network Rail scheme window. Early indications suggest that as Covid restrictions are relaxed public confidence is returning and the retail sector may see a recovery to better than pre-pandemic levels. Any adverse impact on the car park and surrounding areas will have a potential serious impact on new lettings and lease renewals. As was set out in our previous letter, we will continue to work with Network Rail to resolve the issues of concern to us but our client and the occupying retail tenants must have a clear understanding of the nature, impact and duration of the works to be undertaken and the extent of the carpark to be occupied.

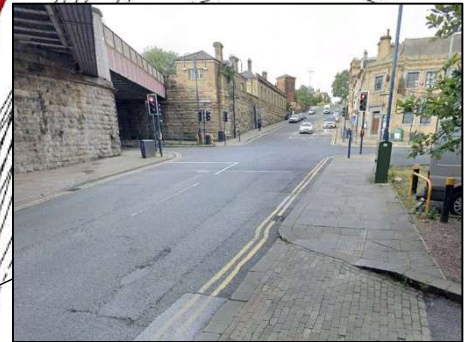
Finally, in closing, we would like to raise the issue of costs. We are aware that there is only limited scope for an objector to recover their costs at inquiry. However, given the particular circumstances of this case and the lack of information that has been provided we feel that there is a compelling case for the Secretary of State to exercise his discretion and make a costs award. We have spent a considerable amount of time undertaking a forensic analysis to try and establish precisely what is being proposed by Network Rail. Whilst things are slowly moving in the right direction there is still a significant lack of detail. Please therefore accept this statement of case as a prior application for costs if our objections remain to be dealt with at the inquiry

Yours faithfully,



David Strafford

For and on behalf of Gateley Hamer Limited





The Secretary of State for Transport,  
c/o Transport Infrastructure Planning Unit,  
Department for Transport,  
Great Minster House,  
33 Horseferry Road,  
London,  
SW1P 4DR

Date: 13 May 2021

Our ref: 142314.041

Direct tel: 07788 312 424

E-mail: david.strafford@gateleyhamer.com

**By email to [transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk)**

Dear Sir,

***The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006***  
***The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order***

I am writing on behalf of Kinder Properties Limited, Oak Walk, St Peter, Jersey, E3 7EF ("Kinder"), freehold owner of the Castlegate Retail Park, Huddersfield.

Kinder does not oppose the principle of the proposals underlying the proposed Transport and Works Act Order, however we would like to register an objection for the following reasons:

1. Plot numbers 4-004, 4-005, 4-007, 4-008, 4-009, 4-010, 4-017, 4-019, 4-020, 4-025, 4-026, 4-033, 4-039, 4-041 and plot 4-049 in relation to freehold interests and plot number 4-046 as an occupier interest by Kinder are set out in the Book of Reference to the above Order

A Rule 15 Notice dated 31 March 2021 was served on Kinder c/o Walker Morris LLP at 12 Kings Court Leeds LS1 2HL. This Notice cites plot numbers 4-020, 4-041, 4-046 and 4-049, which relates to a strip of land in Kinder's ownership immediately abutting the west side of the viaduct carrying the Huddersfield to Dewsbury railway line, immediately to the north of viaduct arch 4 within the Castlegate Retail Park carpark.

This is the only Rule 15 Notice received by Kinder.

Clarification is required as to whether the Rule 15 Notice dated 31 March 2021 relating to the four plots 4-020, 4-041, 4-046 and 4-049 is the total extent of Kinder's land required to be used for the scheme.

2. Clarification is required as to the nature and duration of any permanent and/or temporary land take(s) required for the scheme. This is not clear from the Book of Reference Schedule, or from the application, plans and other documents available on Network Rail's website.

Minerva House  
29 East Parade,  
Leeds LS1 5PS  
0113 261 6899

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3. Clarification is required as to the nature of proposed vehicle protection measures that are referred to on Drawing Number 151667-TSA-30-MVL3-DRG-T-LP-163100 and the impact of the same on the exit to the Castlegate Retail Park carpark.
4. A pre-order application letter was sent to Kinder's managing agents, Fletcher King, by Network Rail, under reference 151667-TSA-00-TRU-LTR-W-LP-000396 on 18 March 2021. This letter was accompanied by a plan which together suggested that the whole of the Castlegate Retail Park complex was to be included in the Order and utilised in one way or another by Network Rail for the scheme.

The letter referred to the acquisition of airspace rights, temporary possession of the retail car park to undertake 'renewal works', potential crane oversail rights and amendments to the one-way entry and exit traffic management system currently in operation at the car park.

If our understanding as to the extent of the land that has been made subject to the Order by way of the Rule 15 Notice is correct, then those plots outside of the strip of land referred to in paragraph number 1 (i.e. plots 4-020, 4-041, 4-046 and 4-049), have not been included in the operative entry provisions of a Rule 15 Notice.
5. Further, if it is proposed to temporarily change the entry and exit arrangements to the retail park we will need to ensure that an exit on to St John's Road will be possible. We have concerns as to whether it is possible and safe to make a right hand turn exit on to St John's Road from the retail park. Likewise we will need to ensure that a single entry and exit point will not adversely impact deliveries to the retail traders and customer parking. We require significantly more information than has presently been provided.

In submitting this objection Kinder wish for it be noted that they will work collaboratively with Network Rail. A key requirement of this is a full and thorough understanding of the nature, impact and duration of the works to be undertaken and the extent of land to be occupied.

Yours faithfully,



David Strafford

For and on behalf of Gateley Hamer Limited

**The Transport and Works Act 1992****The Transport and Works (Applications and Objections Procedure)  
(England and Wales) Rules 2006****The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order**

To: The Secretary  
Kinder Properties Limited  
c/o Walker Morris LLP  
Kings Court  
12 King Street  
Leeds  
LS1 2HL

**NOTICE OF APPLICATION TO ACQUIRE RIGHTS IN LAND COMPULSORILY, TO EXTINGUISH RIGHTS OVER LAND, TO TEMPORARILY USE LAND AND FOR POWERS TO CARRY OUT PROTECTIVE WORKS TO BUILDINGS ROADS AND APPARATUS OF A STATUTORY UNDERTAKER**

Network Rail Infrastructure Limited ("Network Rail") of 1 Eversholt Street London NW1 2DN has applied to the Secretary of State for Transport under section 6 of the Transport and Works Act 1992 for the above mentioned Order under sections 1 and 5 of that Act.

The draft Order seeks to authorise Network Rail to construct a new railway, including the upgrade and reconstruction of the existing railway, railway electrification works and associated works between Huddersfield and Westtown (Dewsbury). The draft Order also seeks to authorise Network Rail to construct station improvement works at Huddersfield and works for the construction or reconstruction of stations at Deighton, Mirfield and Ravensthorpe.

The draft Order provides for the compulsory purchase of rights in land, the extinguishment of rights over land rights and rights to temporarily use land and provides for rights to carry out protective works to buildings, roads and apparatus of a statutory undertaker on land within the limits of the draft Order.

The land described in the Schedule to this notice in which it is believed you have an interest is subject to the exercise of the compulsory powers provided for in the draft Order as described above.

The application is to be made subject to an environmental impact assessment.

The application contains a statement that a direction for deemed planning permission is being applied for.

A copy of the application, and of all plans and other documents submitted with it, may be viewed and downloaded from Network Rail's website at <https://www.networkrail.co.uk/TranspennineEngagement> from 31 March 2021. Copies of the documents may also be obtained from Penny Carter, Network Rail Infrastructure Limited, 3rd Floor, Square One, 4 Travis Street, Manchester M1 2NY (email: Penny.Carter@networkrail.co.uk). A reasonable copying charge may apply up to a maximum of £500 for the full suite of documents. Copies of individual documents are also available on request.

Further information about the proposals can also be obtained by telephoning Network Rail's national helpline on 03457 11 41 41.

Any objections to, or other representations about, the proposals in the application should be sent to the Secretary of State for Transport c/o Transport Infrastructure Planning Unit, Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR (e-mail: [transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk)).

An objection or other representation MUST (i) be received by the Secretary of State on or before 17 May 2021, (ii) be made in writing (whether sent by post or e-mail), (iii) state the grounds of the objection or other representation, (iv) indicate who is making the objection or other representation, and (v) give an address to which correspondence relating to the objection or other representation may be sent. (If you are sending your objection or other representation by e-mail, please provide a postal address.)

Where an objection is made (and not withdrawn) by a person who is an owner, lessee, tenant or occupier of any land which is subject to compulsory purchase in the draft Order, and that person so requests in writing, the Secretary of State must hold a public local inquiry or otherwise give that person an opportunity to be heard. However, this rule will not apply where an objection appears to the Secretary of State to be frivolous or trivial, or to relate to matters which fall to be determined by a tribunal concerned with the assessment of compensation.

The Secretary of State may make complete copies of the objections and other representations public, including any personal information contained in them, and will copy them to the applicant for the order.

Signed: 

On behalf of: Network Rail Infrastructure Limited

Date: 31 March 2021

Name and Status of Signatory: Alex Davies, Head of Consents & Environment

### **SCHEDULE**

Description of land and/or buildings affected by the proposed compulsory powers

<b>No. on attached plan</b>	<b>Extent and description of land</b>
4-020	Private road and footway (Green Street, Huddersfield)
4-041	Footway and hardstanding (Green Street, Huddersfield)
4-046	Footway to the north east of Green Street, Huddersfield
4-049	Footway to the north of Green Street, Huddersfield





THE NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY) IMPROVEMENTS) ORDER

Sheet No. 4

WORK NO. 1C (For section of Work No. 1C, see Sheet No. 28)

KEY

—

CENTRE LINE OF WORK

- - - - -

CENTRE LINE OF SUBSURFACE WORK

- - - - -

LIMIT OF DEVIATION

- - - - -

LIMIT OF LAND TO BE ACQUIRED OR USED

- . - . -

PROTECTIVE WORKS LIMIT

+ + + + +

DISTRICT BOUNDARY

○

COMMENCEMENT OF WORK

●

TERMINATION OF WORK

◐

COMMENCEMENT OF WORK AND TERMINATION OF WORK

A

NEW / IMPROVED ACCESS

—

EXISTING OR ALLEGED PUBLIC RIGHT OF WAY

—

NEW RIGHT OF WAY TO BE PROVIDED (EXCEPT WHERE PROVIDED OVER A SCHEDULED WORK)

Note: The area enclosed by any limit of deviation or by any limit of land to be acquired or used is the area extending to the outer edges of the line marking those limits.

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SCALE 1:1250 @ A1

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**The Transport and Works Act 1992****The Transport and Works (Applications and Objections Procedure)  
(England and Wales) Rules 2006****The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order**

To: The Secretary  
Kinder Properties Limited  
c/o Walker Morris LLP  
Kings Court  
12 King Street  
Leeds  
LS1 2HL

**NOTICE OF APPLICATION TO TEMPORARILY USE LAND, ACQUIRE RIGHTS ONLY IN LAND COMPULSORILY AND FOR POWERS TO CARRY OUT PROTECTIVE WORKS TO BUILDINGS ROADS AND APPARATUS OF A STATUTORY UNDERTAKER**

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The draft Order also includes provision for the temporary use of land, the compulsory acquisition of rights only in land and rights to carry protective works to buildings, roads and apparatus of a statutory undertaker on land within the limits of the draft Order .

The land described in the Schedule to this notice in which it is believed you have an interest is subject to the exercise of the compulsory powers provided for in the draft Order as described above.

The application is to be made subject to an environmental impact assessment.

The application contains a statement that a direction for deemed planning permission is being applied for.

A copy of the application, and of all plans and other documents submitted with it, may be viewed and downloaded from Network Rail's website at <https://www.networkrail.co.uk/TranspennineEngagement> from 31 March 2021. Copies of the documents may also be obtained from Penny Carter, Network Rail Infrastructure Limited, 3rd Floor, Square One, 4 Travis Street, Manchester M1 2NY (email: Penny.Carter@networkrail.co.uk). A reasonable copying charge may apply up to a maximum of £500 for the full suite of documents. Copies of individual documents are also available on request.


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An objection or other representation MUST (i) be received by the Secretary of State on or before 17 May 2021, (ii) be made in writing (whether sent by post or e-mail), (iii) state the grounds of the objection or other representation, (iv) indicate who is making the objection or other representation, and (v) give an address to which correspondence relating to the objection or other representation may be sent. (If you are sending your objection or other representation by e-mail, please provide a postal address.)

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The Secretary of State may make complete copies of the objections and other representations public, including any personal information contained in them, and will copy them to the applicant for the Order.

Signed: 

On behalf of: Network Rail Infrastructure Limited

Date: 31 March 2021

Name and Status of Signatory: Alex Davies, Head of Consents & Environment

### SCHEDULE

Description of land and/or buildings affected by the proposed compulsory powers

No. on attached plan	Extent and description of land
4-004	Commercial building (Unit 1, Castlegate Retail Park, St. John's Road, Huddersfield, HD1 5AN)
4-005	Private road and footways (Green Street, Huddersfield)
4-007	Commercial building (Unit B, Castlegate Retail Park, St. John's Road, Huddersfield, HD1 5AN)
4-008	Commercial building and hardstanding (Unit A, Castlegate Retail Park, St. John's Road, Huddersfield, HD1 5AT)
4-009	Commercial building (Unit 2, Castlegate Retail Park, St John's Road, Huddersfield, HD1 5AN)
4-010	Car park (Castlegate Retail Park, St John's Road, Huddersfield)
4-017	Commercial building (Castlegate Retail Park, St John's Road, Huddersfield)
4-019	Commercial building (Unit 3, Castlegate Retail Park, St. John's Road, Huddersfield, HD1 5AN)

4-020	Private road and footway (Green Street, Huddersfield)
4-025	Commercial building (Unit 4, Castlegate Retail Park, St. John's Road, Huddersfield, HD1 5AN)
4-026	Commercial building (Castlegate Retail Park, St John's Road, Huddersfield)
4-033	Hardstanding adjacent to Unit 4 Castlegate Retail Park, to the north of Green Street, Huddersfield
4-039	Storage unit (Unit 4, Castlegate Retail Park, St John's Road, Huddersfield, HD1 5AN)
4-041	Footway and hardstanding (Green Street, Huddersfield)
4-043	Hardstanding to the north of Green Street, Huddersfield
4-046	Footway to the north east of Green Street, Huddersfield
4-049	Footway to the north of Green Street, Huddersfield

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THE NETWORK RAIL (HUDDERSFIELD TO WESTTOWN  
(DEWSBURY) IMPROVEMENTS) ORDER

Sheet No. 4

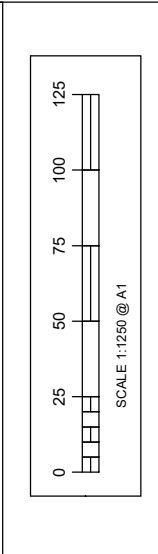
WORK NO. 1C (For section of Work No. 1C, see Sheet No. 28)

KEY	
	CENTRE LINE OF WORK
	CENTRE LINE OF SUBSURFACE WORK
	LIMIT OF DEVIATION
	LIMIT OF LAND TO BE ACQUIRED OR USED
	PROTECTIVE WORKS LIMIT
	DISTRICT BOUNDARY
	COMMENCEMENT OF WORK
	TERMINATION OF WORK
	COMMENCEMENT OF WORK AND TERMINATION OF WORK
	NEW / IMPROVED ACCESS
	EXISTING OR ALLEGED PUBLIC RIGHT OF WAY
	NEW RIGHT OF WAY TO BE PROVIDED (EXCEPT WHERE PROVIDED OVER A SCHEDULED WORK)



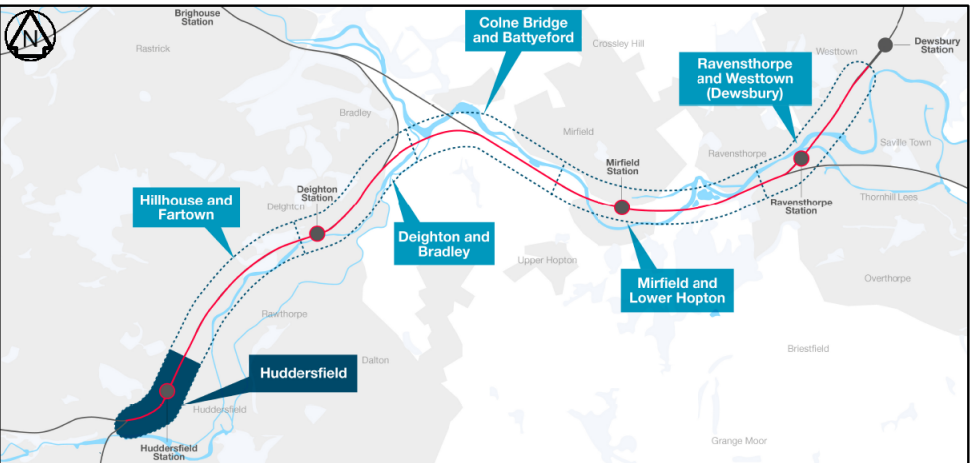
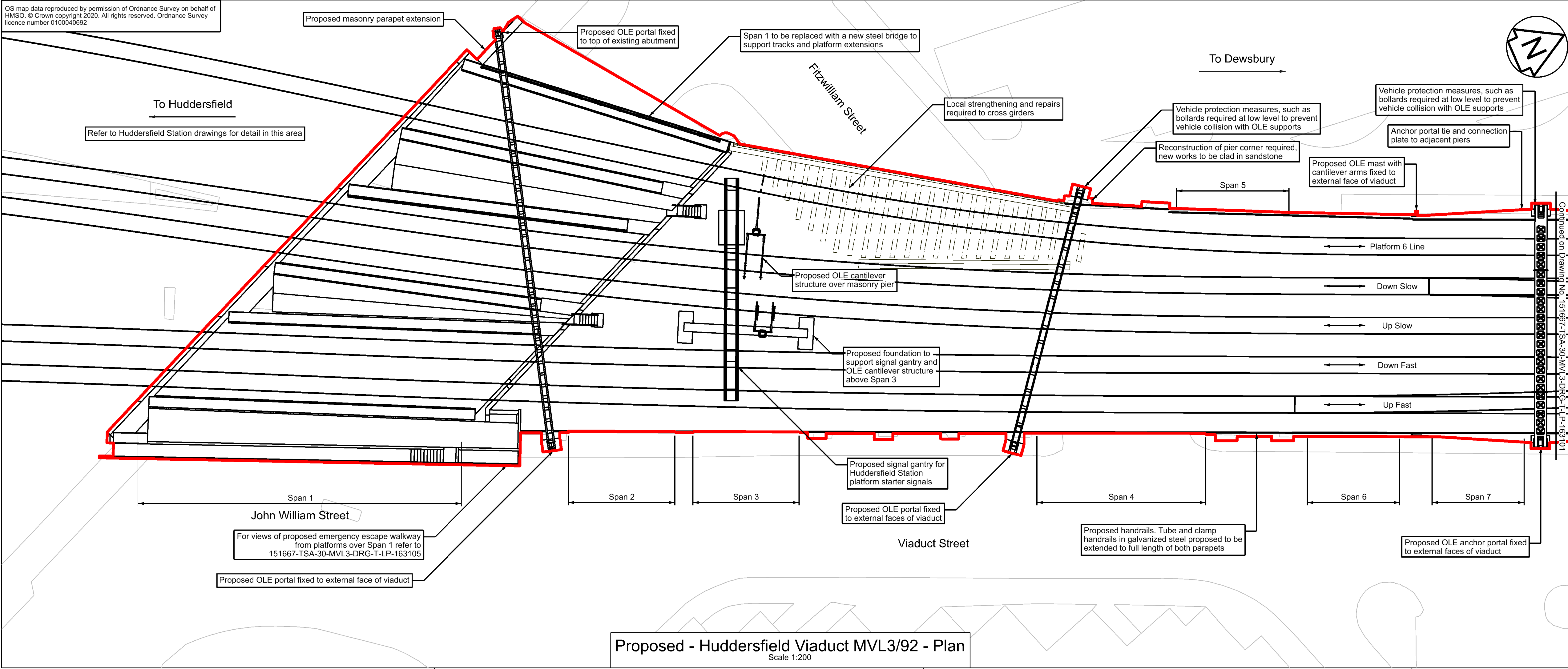
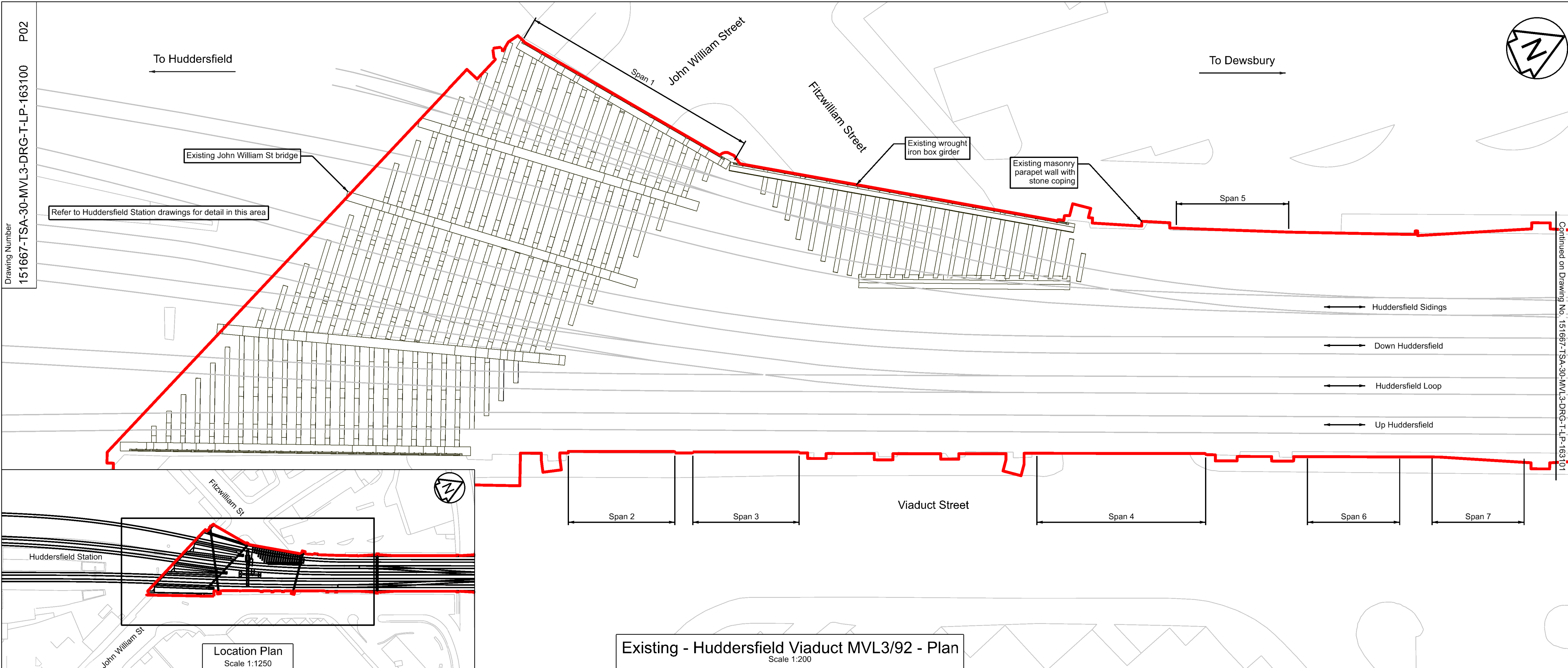
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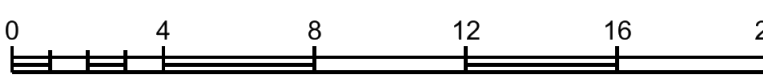




- Notes
1. All dimensions are in millimetres unless stated otherwise.
  2. Do not scale from this drawing.
  3. In constructing or maintaining the works identified as Scheduled Works in Schedule 1 of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order Network Rail may deviate from the dimensions shown on this drawing to the extent permitted by the Order.
  4. Overhead Line Equipment wires omitted for clarity.
  5. This drawing is to be read in conjunction with drawings 151667-TSA-30-MVL3-DRG-T-LP-163101 to 151667-TSA-30-MVL3-DRG-T-LP-163115 and drawings 151667-TSA-30-MVL3-DRG-T-LP-163118 to 151667-TSA-30-MVL3-DRG-T-LP-163119.



MVL3/92 - Routeview image looking towards Leeds



SCALE 1:200



SCALE 1:1250

THE NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY) IMPROVEMENTS) ORDER

P01	13/10/20	Issued for Listed Building Consent	DW	TM	
P02	19/03/21	Second Issue	DW	RF	GT
Rev	Date	Description of Revisions	Drawn	Chkd	Appr
Status					Suitability

Fit for Contractor Design

D3



Authorised T.Rivero Signed Electronically Signed Date 2021/03/19

Contractor(s) TRU West Alliance

Location STALYBRIDGE STN - HEATON LODGE JN (HUDD-MANC LINE)

Type	CAD Drawing	Sub-type	Plan
Role	Town and Country Planner	Sub-Role	General
Zone	Huddersfield		
Phasing	Existing	Grip Stage	0
Project			

Transpennine Route Upgrade

Contract No. 151667

Contract Title West of Leeds

Drawing Title  
Listed Building  
Consent Drawing  
Huddersfield Viaduct MVL3/92  
Existing and Proposed Plan

Designed	M.Colman	Signed	Electronically Signed	Date	15/03/21
Drawn	D.Wilcox	Signed	Electronically Signed	Date	15/03/21
Checked	R.Fletcher	Signed	Electronically Signed	Date	15/03/21
Approved	G.Thomas	Signed	Electronically Signed	Date	15/03/21

Scale(s) 1:200 ELR & Mileage 25.1504 to 0

Alternative Reference Sheet 1 of 5

Drawing Number 151667-TSA-30-MVL3-DRG-T-LP-163100 Revision P02





A62

HD1 5AN

IN

OUT

St Johns Rd

Fitzwilliam St

Unna Way

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