

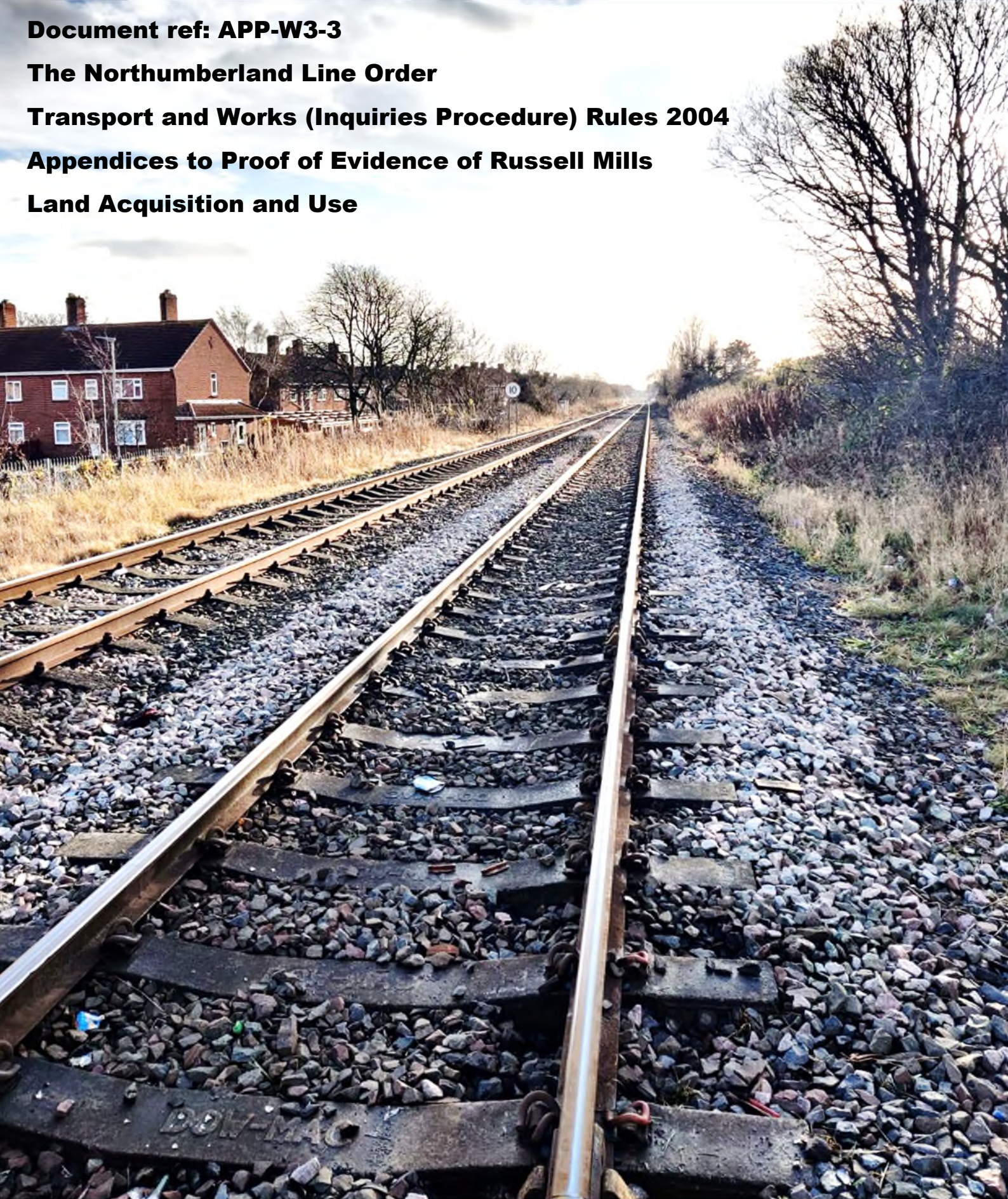
Document ref: APP-W3-3

The Northumberland Line Order

Transport and Works (Inquiries Procedure) Rules 2004

Appendices to Proof of Evidence of Russell Mills

Land Acquisition and Use



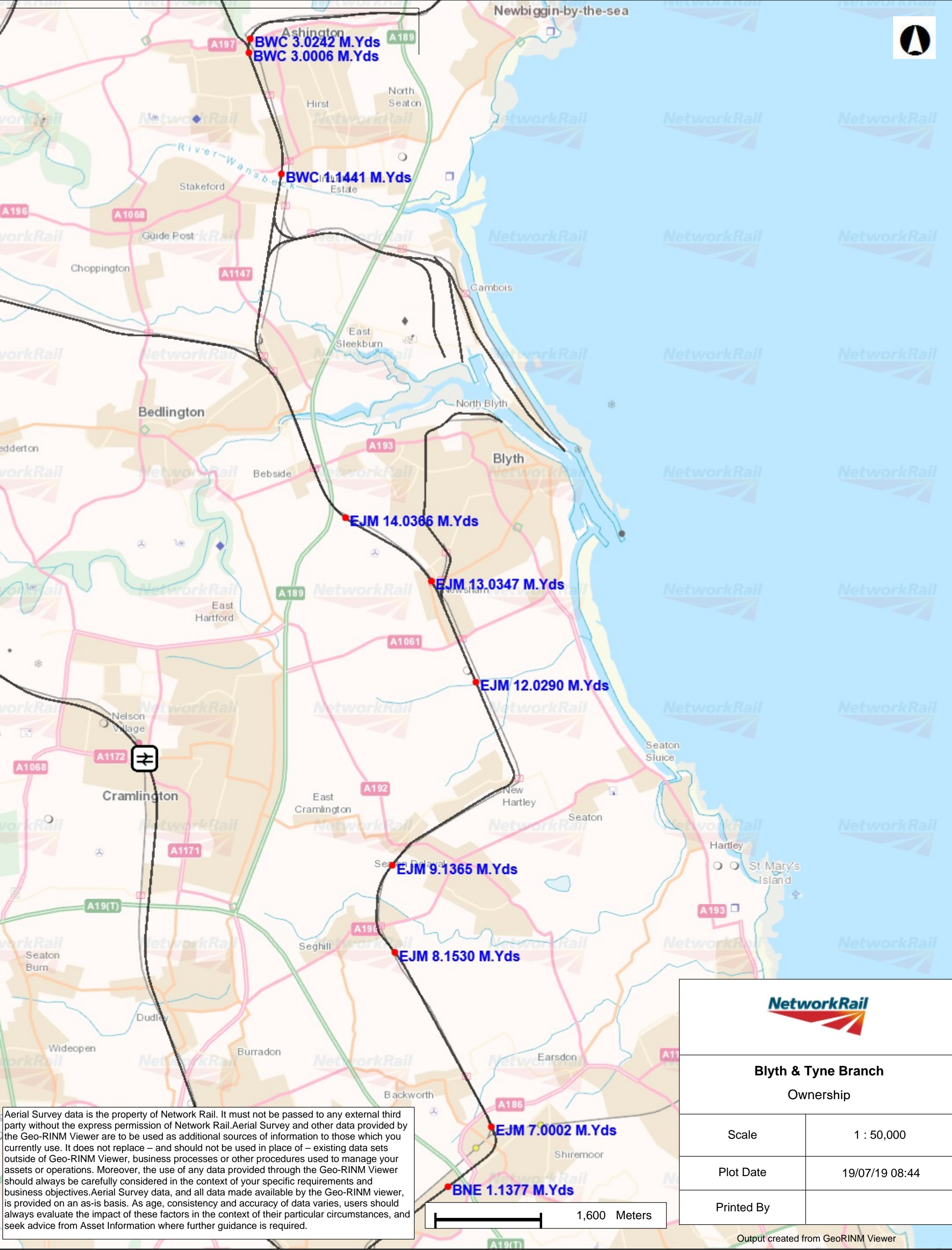
Northumberland
County Council

NORTHUMBERLAND COUNTY COUNCIL
NORTHUMBERLAND LINE
APPENDICES TO RUSSELL MILLS – PROOF OF EVIDENCE
LAND ACQUISITION AND USE

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**APPENDIX A - PLAN SHOWING SECTIONS OF LINE SUBJECT TO
WAYLEAVE LEASES**



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Blyth & Tyne Branch Ownership	
Scale	1 : 50,000
Plot Date	19/07/19 08:44
Printed By	

APPENDIX B APPLICATION FOR A CERTIFICATE UNDER THE ACQUISITION OF LAND ACT 1981

BY E-MAIL

Secretary of State for Communities and Local Government
c/o DCLG National Planning Casework Unit
5 St Philips Place
Colmore Row
BIRMINGHAM
B3 2PW

Your Ref:
Our Ref: 123554306.2\NO0965.07001

DDI +44 2074906995

E duncan.o'connor@pinsentmasons.com

For the attention of Rachel Beard

18 May 2021

Dear Sir or Madam,

**PROPOSED NORTHUMBERLAND LINE ORDER
APPLICATION FOR A CERTIFICATE UNDER SECTION 19 AND SCHEDULE 3 TO THE
ACQUISITION OF LAND ACT 1981 (THE 1981 ACT)**

We act for Northumberland County Council in relation to the application for the above-mentioned order under the Transport and Works Act 1992 (TWA).

The proposed Order would authorise a range of matters in connection with the Northumberland Line project, which will reintroduce passenger trains between Ashington and Newcastle. The matters for which provision is made in the proposed Order include the compulsory acquisition of land and rights, the temporary possession and use of land, the closure of level crossings, the extinguishment and diversion of rights of way, the extinguishment of private rights and the carrying out of certain ancillary works, all within the County of Northumberland and the Metropolitan Borough of North Tyneside

We anticipate submitting the application for the proposed Order to the Secretary of State for Transport on 26 May 2021.

Pinsent Masons LLP

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This letter requests a certificate from the Secretary of State under Section 19 and Schedule 3 to the 1981 Act in connection with certain parcels of land subject to powers of acquisition in the proposed Order.

The proposed Order will include a power to compulsorily acquire the freehold land or permanent rights of way over areas of 'open space' within the meaning of the 1981 Act at the following three locations:

1. **Seghill level crossing:** a grassed area to the north-east of Seghill level crossing.
2. **Bebside level crossing:** grassed area to south of A193 adjacent to Bebside level crossing.
3. **Bedlington Station:** grassed area of land on eastern side of railway at end of Blenheim Drive.

These three areas are shown shaded red and numbered as plots 116 (sheet 1), 245, 247 (sheet 2) and 281a (sheet 3) respectively on the enclosed Open Space Plans (at Appendix 1). They are also identified on the land and works plans to be submitted as part the TWA application which show these plots in the wider context of the land within the order limits (the relevant sheets from the land and works plans are enclosed at Appendix 2 – sheet numbers 8, 19 & 20).

We also enclose the relevant extracts of the provisions in respect of the acquisition and use of land from the draft Order (at Appendix 3).

The purpose for which the land and rights are required, and the basis on which the certificate is applied for in relation to each area of land is described below:

Land at Seghill level crossing (plot 116 – sheet 1)

The land comprises a grassed area to the north-east of Seghill level crossing (plot number 116). The land is proposed to be acquired under the Order for the purposes of constructing a parking bay which will be used by staff when carrying out regular servicing and maintenance of the level crossing. A certificate is applied for under Section 19(1)(b) of the 1981 Act on the basis that that the land does not exceed 250 square yards in extent ... and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.



Land at Bebside level crossing (plots 245 and 247 – sheet 2)

The land comprises a grassed area to the south of the A193 adjacent to Bebside level crossing (plot numbers 245 & 247). The land is formed of two plots.

Plot 245

A permanent right is required over plot 245 for the purposes of allowing parking by vehicles which will be used by staff when carrying out regular servicing and maintenance of the level crossing. A certificate is applied for under paragraph 6(1)(c) of Schedule 3 to the 1981 Act on the basis that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

Plot 247

Plot 247 is to be acquired under the Order for the purposes of installing railway line-side apparatus. A certificate is applied for under Section 19(1)(b) of the 1981 Act on the basis that the land does not exceed 250 square yards in extent ... and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

Land at site of proposed Bedlington Station (plot 281a – sheet 3)

A permanent right of way is required over the land at Bedlington (plot number 281a) for the purpose of creating an emergency egress route from the western platform of the proposed new station. A certificate is applied for under paragraph 6(1)(a) of Schedule 3 to the 1981 Act on the basis that the land, if burdened with the right being sought, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before. In this case, the right of way over the land would only be used in the event of an emergency and would allow passengers and staff to evacuate the western platform by passing over the grassed area to the nearby public highway.

In addition, we also note that the area does not exceed 250 square yards in extent and thus also falls within the de minimis rule (paragraph 6(1)(c) of Schedule 3) should the Secretary of State consider that the giving of other land in exchange is unnecessary.

Should the Secretary of State be minded to give the certificates sought please would you notify us as soon as possible to that we may take steps to publicise the intention to give the certificate,



as required by section 19(2) of, and paragraph 6(3) of Schedule 3 to the 1981 Act. If possible, we would like to give this notice at the same as publishing the second local newspaper notices publicising the submission of the TWA application. We intend to publish those notices in the *News Post Leader* and *The Newcastle Chronicle* on 28 May 2021, leading to a seven week objection period for the TWA application expiring on 8 July 2021. Therefore, to allow sufficient time to publish the 1981 Act notices at the same time as the TWA notice, it would be helpful if you could respond by 21 May 2021. Please let us know if that is not possible.

To assist you in this respect we have drafted a suggested form of public notice of intention to give the certificate, which closely follows that used in previous cases linked with TWA Order applications (at Appendix 4).

It would seem sensible that any resulting objections to or representations on the proposed certificate are referred to the same public inquiry as is likely to be held into objections to the TWA application. We anticipate that this inquiry will be held in November 2021 although that will be a decision for the Secretary of State for Transport, in consultation with the Planning Inspectorate, following the expiry of the seven week objection period for the TWA application on 8 July 2021.

If you require any further information, please do not hesitate to contact me.

Yours sincerely

Duncan O'Connor
Legal Director
For and on behalf of Pinsent Masons LLP

APPENDIX C - SUMMARY OF LANDOWNER ENGAGEMENT

SUMMARY OF LANDOWNER ENGAGEMENT

Catherine Hopkins (OBJ 08)

Date	Contact	Comment
29/05/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
09/08/21	Email	Consent to electronic service of TWAO documents requested.
10/08/21	Email	Fenwick Close Q&A doc and response to objection regarding acquisition of land, removal of trees, proximity of works (noise impacts), property value and rentability.
07/10/21	Letter	Letter notifying residents of public meeting at Backworth Hall on the 21 st October, being held by NCC to discuss the impact of the scheme on Fenwick Close properties.

Northern PowerGrid (OBJ 11)

Date	Contact	Comment
01/03/20	Email to Richard Lawson, Wayleave Officer for NPG	Initial contact between Stuart McNaughton and Richard Lawson to discuss interface between Northumberland Line scheme and NPG substation at Ashington.
20/05/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
20/07/21	Email to Richard Lawson and Colin Potts	Seeking to confirm a technical and property meeting to discuss the relocation of the NPG substation off Kenilworth Road in Ashington.
21/07/21	Email to Colin Potts, Senior Operational Property Surveyor	Confirming receipt of objection to TWAO.
18/08/21	Email to Richard Lawson	Seeking to arrange a site meeting at Ashington with NPG representatives.
09/09/21	Site meeting	Meeting to discuss the current location of the substation and the proposed relocation to the west side of the station car park.
16/09/21	Email to Colin Potts	Follow up email to Colin Potts following site meeting on 09/09/21, summarising a without prejudice proposal for relocation of the substation.

Lord Hastings (OBJ 12)

Date	Contact	Comment
02/09/19	Email to Roddy Findlay, land agent for Lord Hastings	Initial email to landowner outlining the background to the scheme and initial land requirements. Also seeking to arrange a meeting in person to discuss this further.
09/09/19	Meeting with Roddy Findlay	Meeting to discuss background to scheme and land requirements.

Date	Contact	Comment
29/10/19	Email to Roddy Findlay	Trying to ascertain who the owner of an unregistered plot of land is at Seaton Delaval.
13/02/20	Email to Roddy Findlay	Informing Roddy Findlay that NCC have instructed SLC to undertake a written valuation of the land at Seaton Delaval. Seeking permission to undertake a site inspection.
12/11/20	Letter to Lord Hastings' registered address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
16/02/21	Email to Roddy Findlay	Seeking to arrange a meeting over video call to discuss the land requirements.
19/02/21	Email to Roddy Findlay	In advance of the MS Teams meeting on 22/02/21, sending over the plans outlining land requirements via email.
22/02/21	MS Teams meeting with Roddy Findlay	Meeting to discuss the land requirements and to seek feedback.
16/04/21	Email to Roddy Findlay	Answering query regarding the RFI
22/04/21	Email to Roddy Findlay	Determining if a piece of unregistered land is owned by Lord Hastings.
13/05/21	Letter sent to landowner's address	Letter sent with updated plans outlining where potential changes have been made to land requirements to be included in the TWAO.
18/05/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
27/05/21	Email to Roddy Findlay	Sending of plans detailing land requirements.
27/05/21	Email to Roddy Findlay	Answering a query regarding use of a particular a land parcel.
10/06/21	Email to Roddy Findlay	Agreement to send further TWAO plans by post.
14/07/21	MS Teams meeting with Roddy Findlay	Meeting between Peter Eustance (SLC) and Roddy Findlay. Roddy requesting details on duration and timescales of work on Lord Hastings land. Roddy also restated intention to object to TWAO.
19/07/21	Email to Roddy Findlay	Issuing a plan to Roddy Findlay detailing proposals for Seaton Delaval station.
20/07/21	Email to Roddy Findlay	Issuing of most recent draft Land and Works Agreement Heads of Terms for review.
24/08/21	Email to Roddy Findlay	Sending over plans that were missing from the TWAO notice.
08/09/21	Email to Roddy Findlay	Sending further detail for TWAO Plot 132.
08/09/21	MS Teams Meeting with Roddy Findlay	Agenda included Clarification on Land Plans (TWAO Objection), Permanent and Temporary Land requirements.
10/09/21	Temporary Licence Offer	Attached draft licence that is proposed to be used to agree temporary land acquisition.
15/09/21	Email to Roddy Findlay	Answering query relating to plot 141a and attaching draft Land and Works Agreement Heads of Terms.
16/09/21	Email to Roddy Findlay	Issuing of amended Heads of Terms.
22/09/21	Email to Roddy Findlay	Procedural points regarding withdrawal of objection.

Date	Contact	Comment
01/10/21	Heads of Terms	Comments from Roddy Findlay regarding Heads of Terms.
01/10/21	Email to Roddy Findlay	Discussion regarding removal of objection from the TWAO.

Blagdon Estates (OBJ 13)

Date	Contact	Comments
02/09/19	Email to Peter Combe, land agent for Blagdon Estate	Request for a meeting to discuss acquisition of land from Blagdon Estates for the construction of Newsham Station.
10/09/19	Email to Peter Combe	Brief explanation of the Newsham station design and provision of draft plan.
11/09/19	Telephone call with Peter Combe	Confirmation of ownership and Blagdon support of the project.
13/02/20	Email to Peter Combe	Email confirming intention to undertake valuation of the land required for the scheme.
12/11/20	Letter send to Blagdon Estate's registered address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
09/04/21	Email to Peter Combe	Seeking permission to inspect land at Newsham.
09/04/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
12/04/21	Email to Peter Combe	Organising meeting with Peter Combe and the project team to discuss Newsham Station design.
23/04/21	Email to Peter Combe	Enquiry regarding a small unregistered triangular land parcel at Newsham.
04/06/21	Email to Peter Combe	Response to Blagdon's concerns over large amount of land included in the TWAO as a result of hydraulic modelling works. Request of availability for a MS Teams meeting to discuss.
28/06/21	MS Teams meeting with Peter Combe	Meeting to discuss Blagdon objection and the need for conclusion of the hydraulic modelling process in particular.
01/07/19	Email to Peter Combe	Clarification of landownership and checking which landowners are represented under Blagdon Estates.
05/07/21	Email to Peter Combe	Follow up email after meeting on 28/06/2021 and completing various actions from that meeting.
08/07/21	Email to Peter Combe	Requesting confirmation that TWAO Notices were received.
14/07/21	Email to Peter Combe	Sending over files of hydraulic modelling to Peter Combe as requested.
05/08/21	Email to Peter Combe	Provision of Land & Works Agreement Heads of Terms.
20/08/21	Email to Peter Combe	Acknowledgement of receipt of objection letter to the TWAO.

Date	Contact	Comments
10/09/21	Email to Peter Combe	Issuing updated plans of land take including flood attenuation pond.
15/09/21	Email to Peter Combe	Issuing updated plan.
16/09/21	MS Teams Meeting with Peter Combe	Meeting to discuss the conclusion of the hydraulic modelling process and potential changes to the station design suggested by the landowner.
20/09/21	Letter following site meeting	Letter providing updated plan with final land areas for acquisition, along with general arrangement plan for Newsham Station.
30/09/21	Email to Peter Combe	Without prejudice offer for land and rights required.
05/10/21	Email to Peter Combe	Follow up email to without prejudice offer.

Anne Hopwood (OBJ 15)

Date	Contact	Comment
12/11/20	Letter regarding public consultation	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
18/11/20	Phone Call	Discussion regarding likely permanent land required for the scheme.
19/04/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
31/08/21	Letter following objection	Letter sent to provide updated plan of land required in back garden for fence relocation. Request to set up meeting.
09/09/21	Site Meeting	Site meeting to discuss the land requirements.
20/09/21	Letter following site meeting	Letter providing updated plan with final land areas for acquisition, along with general arrangement plan for Bedlington Station.

John and Lynda Clough (OBJ 16)

Date	Contact	Comment
29/05/21	RFI Letter	RFI letter sent for Land Referencing purposes.
09/08/21	Email	Consent to electronic service of TWAO documents requested.
10/08/21	Email	Fenwick Close Q&A doc and response to objection around use of Plot 50, parking spaces and duration of construction.
23/09/21	Email	Response to questions raised regarding the scheme.
24/09/21	Email	Invitation to residents meeting on 30 th September 2021.

Date	Contact	Comment
30/09/21	Site Meeting	Representatives from NCC and their consultant team met with John Clough and other objectors from Fenwick Close to discuss the impact of the scheme on their properties.
07/10/21	Letter	Letter notifying residents of public meeting at Backworth Hall on the 21st October, being held by NCC to discuss the impact of the scheme on Fenwick Close properties.

Chris Scorer (OBJ 18)

Date	Contact	Comment
29/05/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
09/08/21	Email	Consent to electronic service of TWAO documents requested.
10/08/21	Email	Fenwick Close Q&A doc and response to objection around service of notices, property value and rentability, car parking spaces, noise impacts, anti-social behaviour, environmental impacts.
24/08/21	Email	Chaser email re Consent to electronic service of TWAO documents requested.
26/08/21	Email	Email asking for consent to send documents prior to public inquiry.
27/08/21	Email	Further communication about sending of documents prior to public enquiry.
24/09/21	Email	Invitation to residents meeting on 30th September 2021.
05/10/21	Email	Invitation to meeting with representatives from NCC and their consultant team to discuss the impact of the project on Mr Scorer's property.
07/10/21	Letter	Letter notifying residents of public meeting at Backworth Hall on the 21st October, being held by NCC to discuss the impact of the project on Fenwick Close properties.

BDW/Barratt Homes (OBJ 19)

Date	Contact	Comment
12/11/20	Letter regarding public consultation sent to registered address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
01/04/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
20/05/21	RFI Reminder	Reminder to complete and return RFI.
17/05/21	Email to Kerry Moore	Providing plans showing land requirements to be included in the TWAO.
27/05/21	Letter to BDW Trading Ltd	TWAO Land Plans sent to BDW.

Date	Contact	Comment
06/07/21	Email to Kyle Dobson, Technical Manager at BDW Homes	Response to concerns about the use of their land for the scheme.
30/07/21	Email to Kyle Dobson	Amco requesting to visually inspect the land/culvert at Hartley Curve.
08/09/21	Email to Kyle Dobson	Holding email while further investigations were carried out by design team.
16/09/21	Email to Kyle Dobson	Requesting CAD version of residential site layout at New Hartley to overlay with scheme design proposals.
24/09/21	Email to Kyle Dobson	Confirmation that all land identified in TWAO plots 145 & 146 is no longer required.

Nexus (OBJ 20)

Date	Contact	Comment
20/10/20	MS Teams Meeting	Meeting to discuss scheme progress and possible impact on Nexus infrastructure.
03/11/20	Email to Sarah Crone, Solicitor and Property Manager	Discussion regarding the ownership of Algernon Drive Road Bridge.
12/11/20	Letter regarding public consultation sent to registered address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
14/05/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
24/05/21	Email to Sarah Crone	Request for confirmation of maintenance responsibility for Algernon Drive Road Bridge.
18/06/21	Email to Sarah Crone	Setting up a MS Teams meeting to discuss the Nexus land included in the TWAO. Also confirming that NCC will cover reasonable professional costs of Nexus.
21/06/21	Email to Sarah Crone	Issuing draft technical drawing for Palmersville underpass.
23/06/21	MS Teams Meeting	Teams meeting to discuss Nexus land included in the TWAO.
16/07/21	Email to Sarah Crone	Update on proposals for Palmersville Underpass. Also stating intention for formal response to TWAO objection.
22/09/21	Email to Sarah Crone	Issuing updated plans for Palmersville Underpass.

Northumberland Estates (OBJ 21)

Date	Contact	Comments
12/07/19	Email to Julia Robson at Northumberland Estates	Mike Robbins at NCC sharing plan for temporary lay down area for Northumberland Park Station.
29/07/19	Email to Colin Barnes at Northumberland Estates	Discussion of using land at Shiremoor as temporary site compound for Northumberland Park Station construction.
30/07/19	Email to Colin Barnes	Acknowledgement of email response from Colin.
30/08/19	Email to Colin Barnes	Providing plan showing indicative location of emergency egress route from Northumberland Park station.
05/09/19	Email to Colin Barnes	Requesting meeting with Colin regarding Northumberland Park Station.
18/02/20	Email to Colin Barnes	Request for access to inspect the access route up to underbridge 36.
23/07/20	Email to Colin Barnes	Request for ground investigation/grouting data for the A186 road over rail bridge near Northumberland Park Station.
12/11/20	Letter regarding public consultation sent to registered address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
25/11/20	MS Teams Meeting with Colin Barnes, Rory Wilson and Julia Robson	Meeting to discuss scheme requirements.
23/12/20	Email to Colin Barnes, Rory Wilson and Julia Robson	Acknowledgement of email from Julia Robson discussing each plan provided showing land required. Agreement to have call in the new year.
15/01/21	MS Teams Meeting with Colin Barnes, Rory Wilson and Julia Robson	MS Teams meeting to discuss land requirements.
19/01/21	Email to Colin Barnes, Rory Wilson and Julia Robson	Provision of meeting minutes from meeting on the 15/01/2021.
18/02/21	Email to Colin Barnes	Plan provided to demonstrate proposed access route to underbridge 36.
09/03/21	Email to Julia Robson	Request for availability to have a catch-up meeting regarding land requirements for the scheme.
22/03/21	Email to Julia Robson	Follow up email chasing for availability for meeting.
19/04/21	Email to Colin Barnes Rory Wilson and Julia Robson	Agenda provided for forthcoming meeting.

Date	Contact	Comments
20/04/21	MS Teams Meeting	Meeting to discuss Algernon Drive Road Bridge adoption, Update on use of temporary sites and works at Northumberland Park Station.
21/04/21	Request for Information (RFI) Letter	RFI sent for Land Referencing Purposes.
26/04/21	Email to Julia Robson	Acknowledgement of comments on meeting minutes on the Wayleave agreement and dates agreed for actions.
05/05/21	Email to Julia Robson	Attachment of legal opinion from Pinsent Masons regarding Wayleave Leases.
15/06/21	MS Teams Meeting with Colin Barnes, Rory Wilson and Julia Robson	Discussion of requirements.
09/09/21	Meeting with Julia Robson	Meeting to discuss and agree GI licences, along with further discussion of land requirements.
10/09/21	Email to Julia Robson	Email to confirm actions following meeting on the 9 th September.

Malhotra Commercial Properties Ltd (OBJ 22)

Date	Contact	Summary of Engagement
30/08/19	Phone call and follow-up email to David Clark, Commercial Director at Malhotra Group	Informing landowner of possible need for their site.
05/11/20	Phone call to Ian Tubman, Project Director at Malhotra Group	Notifying landowner of land requirement and impending public consultation exercise.
12/11/20	Letter regarding public consultation sent to registered address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
16/11/20	Email to Ian Tubman	Providing clarification to general scheme enquiry.
01/04/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.
20/05/21	Request for Information (RFI) Letter	RFI sent for Land Referencing Purposes.
16/06/21	Phone Call to Richard Farr	Initial phone call with Richard Farr on receipt of his instructions.
25/06/21	Meeting with Richard Farr	Peter Eustance met with Richard Farr at SW Offices to discuss the site.
30/06/21	Email to Richard Farr	Peter Eustance confirmed Sanderson Weatherall terms for acting on behalf of Malhotra.

Date	Contact	Summary of Engagement
04/08/21	Email to Richard Farr	Response to TWAO objection.
10/08/21	Email to Richard Farr	Without prejudice offer made for acquisition of land.
13/08/21	Meeting with Richard Farr	Meeting with Richard Farr and Meenu Malhotra to discuss acquisition of site.
16/08/21	Email to Richard Farr	Email requesting update on landowner's valuation and date for likely counter offer based upon compensation provisions.
16/08/21	Phone Call to Richard Farr	Subsequent phone call to Richard Farr to follow up email.
08/09/21	Phone call Richard Farr	Without prejudice discussions leading to emailed offer by Malhotra.
16/09/21	Email to Richard Farr	Email updating Richard Farr informing him SLC taking clients instructions - also seeking engagement with Malhotra on matters regarding ground investigations.
23/09/21	Email to Richard Farr	Response to query made following the pre inquiry meeting.
27/09/21	Email to Richard Farr	Technical note justifying requirement of Malhotra site and asking for rationale behind counter offer.
06/10/21	Email to Richard Farr	Counter offer made by NCC.

John Watson (OBJ 23)

Date	Contact	Comment
29/05/21	Request for Information (RFI) Letter	RFI sent for Land Referencing Purposes.
09/08/21	Email	Consent to electronic service of TWAO documents requested.
10/08/21	Email	Fenwick Close Q&A doc and response to objection regarding acquisition of land, removal of trees, proximity of works (noise impacts), property value and rentability.
07/10/21	Letter	Letter notifying residents of public meeting at Backworth Hall on the 21st October, being held by NCC to discuss the impact of the project on Fenwick Close properties.

Bernicia Group (OBJ 25)

Date	Contact	Comment
25/09/20	Email to Jeff Boyd, Assistant Director at Bernicia Group	Informing Bernicia of land requirement at Sleekburn House, required for the construction of Bedlington Station.
30/09/20	Email to Jeff Boyd	Chasing Jeff following email on the 25/09/20.
20/10/20	Email to Jeff Boyd	Provision of plans for Bedlington Station platform.
09/11/20	Email to Jeff Boyd	Requesting details of who would be dealing with Sleekburn House at Bernicia Group.
12/11/20	Letter sent to landowner's	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.

Date	Contact	Comment
	registered address	
18/11/20	Email to Jeff Boyd	Requesting details including floor plans and ventilation for Sleekburn House.
11/01/21	Email to Jeff Boyd	Providing Daylight and Noise assessment for Sleekburn House to be submitted with the station Planning Application.
01/04/21	Request for Information (RFI) Letter	RFI sent for Land Referencing Purposes.
09/04/21	Email to Liz McLoughlin at Sanderson Wetherall, newly appointed agent for Bernicia Group	Acknowledging email from Liz McLoughlin as the newly appointed agent.
22/04/21	Email to Liz McLoughlin	Negotiating fees to be agreed with Liz McLoughlin.
20/05/21	RFI Reminder	Reminder to complete and return RFI.
21/05/21	Email to Jeff Boyd/Liz McLoughlin	Email to inform Bernicia of further temporary land requirements needed for Hospital Underpass.
06/07/21	Email to Liz McLoughlin	Informing landowner of need for a Building Surveyor to undertake trickle vent survey of Sleekburn House.
03/09/21	Email/Letter to Liz McLoughlin	Attachment of letter of response to Bernicia TWAO objection.
13/09/21	Email to Liz McLoughlin	Arranging access for a Trickle Vent Survey.
14/09/21	Email to Liz McLoughlin	Issuing of section plans for Sleekburn House to provide more information on the effects of construction on the care home.
15/09/21	Email to Liz McLoughlin	Providing information on current frequency of trains passing Sleekburn House.
16/09/21	Email to Liz McLoughlin	Arranging access for a Trickle Vent Survey.
20/09/21	Email to Liz McLoughlin	Response to concerns regarding impact of the scheme at both Bedlington and Ashington.
20/09/21	Email to Liz McLoughlin	Providing information regarding Bedlington Station design specification.
21/09/21	Email to Liz McLoughlin	Stating intention to issue updated plan which corrects the discrepancies in previous plans issued to Bernicia.
21/09/21	Email to Liz McLoughlin	Answering queries from Bernicia and providing updated plans.
22/09/21	Email to Liz McLoughlin	Issuing of updated plan to help demonstrate the impact on Bedlington Station and Sleekburn House.
23/09/21	Email to Liz McLoughlin	Response to TWAO Objection from Bernicia. Seeking further information on what assurances are required.
23/09/21	Phone call to Liz McLoughlin	Discussed TWAO objections and gaining further information from Bernicia.

Date	Contact	Comments
05/09/21	Letter to Malcolm and Kaye Doyle	Letter to confirm possible land requirement for the Northumberland Line scheme.
08/10/19	Meeting with Malcolm Doyle	On site meeting with Malcolm Doyle to explain background to scheme and possible land requirement.
16/10/19	Email to Malcolm Doyle	Update on scheme progress.
24/10/19	Email to Malcolm Doyle	Update on scheme progress and discussion regarding relocation of existing property.
09/12/19	Email to Malcolm Doyle	Update on scheme progress.
07/01/20	Email to Malcolm Doyle	Update on scheme progress and when land negotiations can start.
13/02/20	Email to Malcolm Doyle	Confirmation that NCC would also like to proceed with a valuation of the land required.
17/02/20	Email to Malcolm Doyle	Request to inspect the property on the 18/02/20.
18/02/20	Inspection/ Meeting with Malcolm and Kaye Doyle	Meeting on site to discuss land requirements.
29/09/20	Meeting with Malcolm and Kaye Doyle	Meeting to discuss revised scheme proposals and likely impact on the retained land.
03/10/20	Email to Malcolm Doyle	Discussions regarding costs of professional advice.
28/10/20	Email to Malcolm Doyle	Update on project scheme.
02/11/20	Email to Malcolm Doyle	Providing plan of the proposed land take/land to be retained.
10/11/20	Email to Malcolm Doyle	Discussions regarding site valuation.
19/11/20	Email to Malcolm Doyle	Discussions regarding site valuation.
20/11/20	Letter sent to landowner's address	Letter issued in advance of public consultation providing details of consultation and identifying extent of land required.
27/11/20	Email to Malcolm Doyle	Providing list of options of firms to undertake the independent valuation.
12/02/21	MS Teams Meeting	Meeting with Malcolm Doyle and legal advisor to discuss valuation of the site.
21/01/21	Email to Malcolm Doyle	Discussions regarding site valuation.
16/02/21	Email to Malcolm Doyle	Discussions regarding site valuation.
09/03/21	Email to Malcolm Doyle	Explanation of change in NCC consultant dealing with the site acquisition.
15/03/21	Email to Malcolm Doyle	Email with attached revised plan of the required land take.
19/04/21	Request for Information (RFI) Letter	RFI letter sent for Land Referencing purposes.

Date	Contact	Comments
14/06/21	Email to Liz McLoughlin, newly appointed agent for Malcolm and Kaye Doyle	Email to confirm that plan provided is the outline of land take.
14/06/21	Phone call with Liz McLoughlin	Phone call to discuss land valuation of Doyle's land.
29/06/21	Email to Liz McLoughlin	Up-to-date plan of land requirements issued to land agent.
20/08/21	Email to Liz McLoughlin	Progress report requested regarding offer made for the site.
03/08/21	Email to Liz McLoughlin	Without prejudice negotiations regarding valuation.
03/09/21	Email to Liz McLoughlin	Without prejudice negotiations regarding valuation.
03/09/21	Phone call with Liz McLoughlin	Discussions regarding land take required.
04/10/21	Email to Liz McLoughlin	Without prejudice negotiations.

(REP- 04) McLagan Investments/Asda

Date	Contact	Comment
01/04/21	Request for Information (RFI) Letter	RFI sent for Land Referencing Purposes.
12/05/21	Letter sent to landowner's address	Letter outlining land requirements to be included in the TWAO. Plans accompanied letter.
20/05/21	RFI Reminder	Reminder to complete and return RFI.
16/06/21	Phone Call to John Mutton, Asda Estates Surveyor	Call to discuss Ground Investigations and land requirements.
25/06/21	Email to John Mutton	Seeking to arrange on site meeting.
02/07/21	Email to John Mutton	Arranging MS Teams call with John Mutton.
03/07/21	MS Teams Meeting with John Mutton	Discussion of the land requirements and Phase 2 GI requirements.
23/07/21	Email to John Mutton	Setting out land requirements to be included in the TWAO.
27/07/21	Email to John Mutton	Agreement from NCC to pay professional and legal fees.
18/08/21	Email to John Mutton	Seeking meeting between Asda and NCC's highways and design team to discuss Bebside Footbridge.
24/08/21	Email to David Conboy, Newsteer	Seeking meeting between David Conboy at Newsteer to discuss land acquisition.
31/08/21	Email to David Conboy	Chasing David Conboy at Newsteer for meeting.
02/09/21	Email to Will Sproul, Newsteer	Setting up meeting with Will Sproul from Newsteer.

07/09/21	MS Teams Meeting with Will Sproul	Discussion regarding land requirements.
14/09/21	Email to John Mutton	Providing draft designs of Bebside Footbridge to John Mutton.
17/09/21	Email to Will Sproul	Providing design and technical specification of Bebside Footbridge.
17/09/21	Email to John Mutton	Chasing to arrange meeting with project team to discuss Bebside Footbridge.
23/09/21	Email to Will Sproul	Chasing meeting to discuss footbridge.

APPENDIX D – STATEMENT OF JAMES HOLDROYD

NORTHUMBERLAND COUNTY COUNCIL

NORTHUMBERLAND LINE TRANSPORT AND WORKS ACT ORDER APPLICATION

**STATEMENT OF JAMES HOLDROYD SUPPLEMENTAL TO THE PROOF OF EVIDENCE OF
RUSSELL MILLS**

ARTICLE 35 OF THE DRAFT ORDER

1. INTRODUCTION AND STATEMENT OF EXPERIENCE

- 1.1 I, James Holdroyd, am a Senior Surveyor in the Eastern Region of Network Rail Infrastructure Limited (**Network Rail**) of 1 Eversholt Street, London NW1 2DN. My role at Network Rail began on 2 September 2019 and consists of providing property solutions to facilitate Network Rail's operational works within the region, offering general property advice to Network Rail and attending to external third-party property enquiries.
- 1.2 I have the following qualifications and experience relevant to my role. I am a Member of Royal Institution of Chartered Surveyors (RICS) and a Fellow of the Central Association of Agricultural Valuers (CAAV).
- 1.3 This Statement has been prepared to support the case for the inclusion of article 35 (**Article 35**) in the draft Northumberland Line Order (**Order**) which has been applied for by Northumberland County Council (**NCC**) to enable delivery of the Northumberland Line project (**Scheme**) and is supplemental to the proof of evidence of Russell Mills (**Proof**).
- 1.4 Article 35 relates to the wayleave leases, briefly described in section 5 of the Proof, being:
- 1.4.1 wayleave granted by Lord Hastings to the Blyth and Tyne Railway Company on 20 May 1853 (**Lord Hastings Wayleave**) (**Appendix A**);
- 1.4.2 wayleave granted by the Duke of Northumberland to the Blyth and Tyne Railway Company on 10 May 1853 (**1853 Wayleave**), as varied by the Grant of Alteration in Wayleaves dated 29 July 1867 (**1867 Alteration**) (the relevant extract from the 1867 Alteration is attached at **Appendix B**); and
- 1.4.3 wayleave granted by the Duke of Northumberland to the Blyth and Tyne Railway Company on 30 July 1867 (**1867 Wayleave**)
- (together the **Wayleave Leases**).
- 1.5 The Wayleave Leases were entered into in relation to:
- 1.5.1 the Blyth and Tyne Railway Act 1852, which authorised maintenance and improvement of the Blyth and Tyne Railway in the County of Northumberland; and
- 1.5.2 the Blyth and Tyne Railway Amendment Act 1861, which authorised construction of a railway from the Blyth and Tyne Railway to Newcastle upon Tyne and certain branch railways in the county of Northumberland

(together the **Local Acts**).

- 1.6 The Wayleave Leases provided for the withdrawal of opposition to the Local Acts submitted by the relevant landowners and, together with the Local Acts, authorised construction, operation and the subsequent maintenance of the Blyth and Tyne Railway.
- 1.7 Copies of the Wayleave Leases and their transcripts (where the original documents are indecipherable) are appended to the Statement of Case.
- 1.8 In this Statement I describe:
 - 1.8.1 the effect of the basis for the calculation of rents due under the Wayleave Leases on the Scheme;
 - 1.8.2 the inadequacy of the existing arrangement in the modern context;
 - 1.8.3 the risks that the basis of calculation creates for the Scheme; and
 - 1.8.4 the benefits of proposed Article 35.
- 1.9 The evidence which I give in this statement is from my own knowledge except where I indicated otherwise. I confirm that I have read the Statement of Case and the Proof and that the factual matters described therein, in relation to the points considered in this Statement, are true to the best of my knowledge and belief.

2. **SUMMARY**

- 2.1 Parts of the land on which the railway included in the Scheme is located are subject to the Wayleave Leases. They were entered into in the 19th century and contain provisions for the payment of rent to the relevant landowners in respect of the transport of freight and passengers on the railway.
- 2.2 The formula for the calculation of rents due in the Wayleave Leases is considered to be unclear and inadequate in the modern context which creates risk for the operation and viability of the Scheme.
- 2.3 The Draft Order [APP-01], therefore, includes Article 35, which provides that, on the coming into force of the Order, the existing rent obligations under the Wayleave Leases cease to have effect. Instead, Network Rail will be liable to pay the relevant landowners compensation by way of a capitalised sum. It is Network Rail's view that this is a pragmatic solution, which provides certainty to all parties.

3. FORMULA FOR THE CALCULATION OF RENTS

3.1 The 1867 Wayleave and the Lord Hastings Wayleave contain identical provisions describing how payments for the carriage of goods and passengers on the railway are to be calculated. They provide as follows:

3.1.1 a fixed rate of five shillings for every "Ten" (46.375 tons) of "Coals, Coke, Culm or Cinders"; and

3.1.2 a further payment in respect of "passengers, cattle and goods" (other than Coal, Coke, Culm or Cinders), such payment being:

(a) if rents/sums payable in respect of "Coals, Coke, Culm or Cinders" amount to £500 or upwards – the rent of 1 shilling; or

(b) if rents/sums payable in respect of "Coals, Coke, Culm and Cinders" do not amount to £500 – a rent or sum equal to 2% of the gross amount payable in respect of the passing and conveying of such passengers, cattle and goods (other than Coal, Coke, Culm or Cinders).

3.2 There are two limbs to the formula. Limb 1 provides for a payment of 5 shillings (equivalent to 5 pence) for every 46.375 tons of coals, coke, culm and cinders (**the Four Cs**) (**Limb 1**).

3.3 Limb 2 provides for a further payment. If rents for the Four Cs exceed £500, then a further payment of one shilling is due. If such rents do not exceed £500, then a payment of 2% of the gross amount payable in respect of the "passing and conveying of passengers, cattle and goods (other than the Four Cs) (**Limb 2**).

3.4 The 1853 Wayleave was entered into on the same basis. However, the rent provisions relating to the transport of the Four Cs were subsequently amended by the 1867 Alteration.

3.5 The amended formula (which amends Limb 1 only) for the calculation of payments for the carriage of goods is as follows:

(a) a rent of five shillings for every "Ten" (46.375 tons) up to 15,000 "Tens";

(b) a rent of two shillings and six pence for every "Ten" in respect of the additional 10,000 "Tens"

provided that a return of one shilling and three pence is made to the railway company for every "Ten" of small coals indentures in the said 25,000 "Tens";

(c) a rent of one shilling per "Ten" exceeding the 25,000 "Tens"; and

(d) for all small coals - a rent of six shillings per "Ten".

3.6 The charges are fixed for the duration of the Wayleave Leases, which are for a term of 1000 years and there are no provisions that recognise, and provide for, the fact that:

3.6.1 the nature of goods transported on the railway will change over time; and

3.6.2 that the way in which railway services are delivered is subject to changing political trends and new, innovative ways of delivering services. For example, under the current railway operating model, Network Rail does not collect fares for passengers or freight; instead, they are collected by the relevant train operating company (**TOC**) or freight operating company (**FOC**).

3.7 I set out below my specific concerns about the inadequacy of the existing rent provisions and the associated risks to the Scheme.

4. **COMPLEXITIES RESULTING FROM THE CURRENT ARRANGEMENTS**

The changed structure for operation of the railway network

4.1 For the majority of the rail network, Network Rail is the freehold owner of the relevant land. The provisions of the Wayleave Leases are therefore highly unusual and similar rent arrangements are unlikely to arise elsewhere on the network.

4.2 The Wayleave Leases were put in place in the 19th century when the ownership and operational arrangements of the railway were very different from the situation that exists today. It is easy to see how the rent provisions were conceived in the 19th century: the railway company transported goods and passengers over the local railway and paid a rent or levy to the landowner based on the volume of goods transported and, in certain circumstances, a percentage of passenger revenues.

4.3 Those arrangements are a far cry from the way the railway is run today. First, we have a national rail network with journeys covering the length and breadth of the country and, secondly, the contractual structure for the operation of the railway network is entirely different from the simple structure that existed when the Wayleave Leases were entered into.

4.4 Under the current structure, Network Rail provides the railway infrastructure and receives track access payments from the TOCs and FOCs. Accordingly, assessing how the formula "2% of the gross amount payable in respect of the passing and conveying of such passengers" should be applied under the current structure, is extremely difficult.

Limb 1

4.5 The main type of freight now transported on the section of railway to which the Wayleave Leases relate is biomass. Consideration has been given to the question as to whether the expression "Coals, Coke, Culm or Cinders" should be interpreted as included biomass, as a

modern day successor to those materials, such that the payment provisions are applied strictly, and with the stated numbers, to the product now conveyed on the railway.

- 4.6 However, it is unclear whether limb 1 should be interpreted to include biomass or whether limb 2 (as described below) should apply.

Limb 2 - 2% of what?

- 4.7 Limb 2 provides for payment of 2% of the gross amount payable in respect of the "passing and conveying of passengers, cattle and goods".
- 4.8 However, it is unclear how the "gross amount payable", to which the 2% should be applied, is calculated. In relation to passengers, it would seem reasonable to argue that the 2% payable would be 2% of the fares paid to the TOCs by passengers using the relevant section of railway. This raises the obvious question as to how a fare that covers a much longer journey than the section of railway that is on land covered by the Wayleave Leases should be apportioned. Moreover, the fares paid are received by the TOCs, not by Network Rail.
- 4.9 Even if the 2% does not relate to the aggregate of fares (or some percentage of them), but to the track access charges paid by the TOC to Network Rail, it is my understanding that there is no "profit" element as such. While I am not personally involved in the process, as far as I am aware, Network Rail's usual practice is for such payments to form the basis of the budget for the maintenance and upkeep of the railway infrastructure. Taking out 2% of any such sum will mean a shortfall elsewhere.

Claims against Network Rail

- 4.10 As a result of the uncertain nature of the existing formula for the calculation of payments, a number of claims have been submitted to Network Rail by the respective landowners in respect of the payment provisions in the Wayleave Leases. The relevant correspondence is further described below and copies of the individual documents referred to are appended to this Statement.
- 4.11 Network Rail received a letter dated 30 September 2018 from Ward Hadaway solicitors, acting on behalf of the Trustees of the Duke of Northumberland 1972 Settlement (**Trustees**) in relation to the 1853 Wayleave (as varied by the 1867 Alteration) dated 30 July 1867 (**2018 Letter**). The 2018 Letter:
- 4.11.1 alleged that rent in the sum of £41,626.31 for the period since 25 March 2011 was due;
- 4.11.2 proposed that the provisions of the 1853 Wayleave (as varied by the 1867 Variation) were modernised; and

- 4.11.3 threatened that the Trustees would seek an injunction to prevent Network Rail from using the railway line and to forfeit/terminate the wayleave.
- 4.12 Following receipt of the 2018 Letter, Network Rail instructed Bruton Knowles to support the negotiation with the Trustees in respect of the outstanding payments. Copies of the 2018 Letter, the Bruton Knowles' report and the associated correspondence between Network Rail and the Trustees are appended to this Statement (**Appendix C**).
- 4.13 I note that, within the correspondence, the Trustees themselves acknowledge the outdated nature of the existing arrangements and suggest that a new modern agreement is entered into in respect of the relevant parts of the railway.
- 4.14 The Trustees have previously suggested an alternative, more modern arrangement. One of the proposals, received on 15 February 2021, was to use the formula adopted in the 1867 Alteration and bring it up to date by adding reference to biomass and increasing the existing payments, as follows:
- (a) £10 per "Ten" for the first 15,000 "Tens" of coal conveyed in any year (i.e.: 21.90 pence per tonne for the first 706,755 tonnes) and £5 per "Ten" for the following 10,000 "Tens" of coal (i.e.: 10.95 pence per tonne for the following 471,170 tonnes); and
 - (b) any coal in excess of 25,000 "Tens" attracts a wayleave of £2 per "Ten" (i.e. 4.38 pence per tonne for any coal in excess of 1,187,450 tonnes).
- 4.15 The Trustees have provided no justification for the proposed uplift apart from the age of the existing arrangement. The proposals have not been accepted by Network Rail (the relevant correspondence, as well as the preceding correspondence with the representatives of the Trustees is attached at **Appendix C**).
- 4.16 The above correspondence was followed by further correspondence from the Trustees, being a letter dated 9 July 2021 (**Letter Before Claim**) (**Appendix D**), which:
- 4.16.1 alleged that rent in the sum of £590,376 (or £196,792 per annum) (being the amount calculated on the basis of the uplifted figures referred to above) is due for the period from 25 March 2018 to 25 March 2021, despite previous yearly payments made by Network Rail having been accepted by the Trustees. Network Rail refutes that there are any arrears and that the claimed amount is the yearly rent payable pursuant to the Wayleave Leases (**Appendix E**);
 - 4.16.2 threatens forfeiture of the wayleave lease (which would mean that trains could not be run on the railway so that the Scheme could not be operated and placing Network Rail in breach of its Network Licence; and

4.16.3 threatens that the Trustees will seek an injunction to stop trains running on the railway; again, this would place Network Rail in breach of its Network Licence and have mean that the Scheme could not be operated.

4.17 While matters of rent and compensation are not matters for the public inquiry into the application for the Order or for determination by the Secretary of State, it is relevant for the Secretary of State to note that the claims made by the Trustees, and the likelihood of further significant claims, would have a significant adverse impact on the viability of the Scheme and the threats of forfeiture and an injunction would further prevent its operation.

5. **IMPACT ON THE PROPOSED SCHEME**

5.1 The uncertainty in terms of interpretation of the existing rent provisions contained in the relevant Wayleave Leases, when read in the modern context, creates risks to the successful implementation of the Scheme and inherent risk to all parties, including Network Rail's ability to comply with its statutory duties.

5.2 It is crucial to the successful implementation of the Scheme that there is no potential impediment to the long-term viability of the Scheme. The claims submitted by the Trustees and the associated threats to forfeit the Wayleave Leases and/or to seek an injunction are holding Network Rail to ransom and create serious viability problems for the Scheme.

5.3 Were the Wayleave Leases to be forfeited and/or injunctive relief granted, it would prevent the Scheme from being brought into use and prevent the ongoing current use of the line for freight purposes. It seems highly likely that the compulsory acquisition of the freehold of the land in question would then be pursued to ensure that the railway which has operated since the 19th century is not undermined by a dispute about the interpretation of the Wayleave Leases.

6. **PROPOSED ARTICLE 35**

6.1 Article 35 of the proposed Order deals with the Wayleave Leases and proposes that any obligation to pay rent under the Wayleave Leases will cease to have any effect and that in place of that obligation Network Rail will pay a capitalised sum by way of compensation for any loss arising from that proposal.

6.2 The sum of compensation would be intended to fully compensate beneficiaries of the Wayleave Leases for the loss of rents in the manner contemplated by the Land Compensation Act 1961. In the absence of agreement between the parties, the level of such sums would be determined by the Upper Tribunal, which would also be competent to determine any disputes about the proper interpretation of the Wayleave Leases. The relevant parties have been advised of their right to make representations about the level of compensation in the usual way.

6.3 It is acknowledged that the effect of Article 35 would extend to extinguishing rent payments in relation to both passenger and freight services. This would be within the scope of orders made

under the Transport and Works Act 1992 (**1992 Act**). Section 1 of the 1992 Act provides that an order made under it can authorise matters *"relating to, or to matters ancillary to, the construction or operation"* of a railway. Section 5(1) of the 1992 Act provides that, without prejudice to the generality of section 1, an order can make provision for matters set out in Schedule 1 to the 1992 Act. This expressly includes, at paragraph 5, *"the abrogation and modification of agreements relating to land"*. In addition, section 5(2) of the 1992 Act provide that an order can make provision *"in relation to more than one scheme, system or mode of transport"*. As such, taking this together, it is clear that the 1992 Act provides a statutory basis for the inclusion of Article 35, as currently drafted. The justification for its inclusion extends to the operation of the railway as a whole, not just to passenger services.

- 6.4 Article 35 avoids the need to acquire the freehold of the land in question outright. It therefore enables the Order scheme to be delivered, and the existing use of the railway to be maintained, whilst minimising the interference with the landowners' property interests.

7. **CONCLUSION**

- 7.1 The proposed conversion of the rent to a commuted sum will remove uncertainty over the interpretation of the existing rent provisions in the Wayleave Leases and remove a potential impediment to the operation and long term viability of the Scheme.
- 7.2 For all these reasons, Article 35 is considered to be a key provision in the Order to provide for the future viability of the operation of the Scheme.

Dated: 11 October 2021

I believe that the facts stated in this Statement are true.

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James Holdroyd

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APPENDIX C – Bruton Knowles' report and the associated correspondence between Network Rail and the Trustees

APPENDIX D – Letter Before Claim

APPENDIX E – Letter to Wards Hadaway

APPENDIX A

WAYLEAVE LEASE.

(OLD 701P)

(Run MAY 1845)

1845

This Indenture made the twentieth day of May in the year of our Lord one thousand eight hundred and fifty-three No. 6.
Wayleave
Lease,
20th May,
1853.

A BETWEEN THE RIGHT HONORABLE JACOB LORD HASTINGS BARON HASTINGS of Melton Constable in the County of Norfolk and of Seaton Delaval in the County of Northumberland who and whose heirs and assigns are included in the expression "the Lessor" hereinafter used of the one part and

B THE BLYTH AND TYNE RAILWAY COMPANY and their successors (hereinafter called "the said Company") of the other part

WITNESSETH that in pursuance of certain agreements entered into with the Lessor before the passing of the "Blyth and Tyne Railway Act 1852" (hereinafter called "the Act") and which

C agreements he hath requested to Company to carry into effect and the Company hereby admit to be binding on them under the Act and also in consideration of the Lessor having on the faith of these presents being executed by the Company withdrawn his opposition to the passing of the Act as the Company hereby admit

D AND ALSO in consideration of the rents covenants and provisoes respectively hereinafter reserved and contained and on the part of the Company to be respectively paid performed and observed The said Lessor doth hereby in exercise of every power or authority him enabling and also in respect of his estate and interest appoint grant

E and demise unto the Company subject and without prejudice to all wayleave and other Leases already made and entered into or already agreed to be made or entered into by the said Lessor with the said Company or with any other Company or Companies whether incorporated or not incorporated person or persons whosoever full and

F free liberty and licence of wayleave and passage upon and over all such parts of the line of the Blyth and Tyne Railway as authorised by the Act (hereinafter called "the Railway") as are now made upon the Lessor's estates and which parts of that line are delineated on the plan hereunto annexed or attached and are thereon coloured red

G And also full and free liberty and licence to exercise in upon or over

Note.
A copy of this plan will be found in the pocket of this volume—it is numbered 24.

No. 6
Wayleave
Lease,
20th May,
1853.

such parts of the Lessor's lands as are delineated on that plan and thereon coloured red such of the powers authorities and privileges conferred on the Company by the Act as may from time to time during the continuance of this demise be requisite for the maintenance and user of the Railway and the Works and Conveniences thereof A according to the provisions of the Act and these presents respectively and also full and free liberty and licence to make alter repair and maintain in and upon those parts of the Lessor's estates so coloured red All such works and conveniences for the purposes of the Railway as are authorised by the Act And also full and free B liberty and licence to use and enjoy all such parts of the Railway and the works and conveniences thereof as now are or shall at any time during the continuance of this demise be in due accordance with the provisions of these Presents made in or upon the Lessor's estates for the conveyance of passengers animals coals coke culm cinders and C other mineral produce and things whatsoever by locomotive or stationary engines horses or other cattle and waggons or other carriages ropes rollers or otherwise howsoever and also full and free liberty power and authority to hinder or stop and to distrain and impound any waggons engines cattle carts horses or carriages at any D time during the continuance of this demise found trespassing on any of the Lessor's estates in or upon which the Railway and the works or conveniences thereof now are or at any time during the continuance of this demise shall in due accordance with the provisions of these Presents be made and also full and free liberty E licence power and authority for the Directors Officers Agents Workmen and Servants of the Company to exercise the preceding liberties respectively together with all and singular other reasonable liberties powers privileges and easements whatsoever needful for the purposes of the Act and these Presents respectively except and F always reserved full power liberty and authority for the Lessor to grant or demise unto any persons whomsoever full and free liberty licence and power to construct use fix and repair other railways byways sidings or branches and to make and lay the same respectively or any part or parts thereof by the side of over under or across the G Railway and the works and conveniences thereof so as not to stop or

hinder the traffic thereon and so always that the interest of the public be not thereby injuriously affected TO HAVE AND TO HOLD the hereby demised premises with the appurtenances unto the Company for the now residue of a term of 1000 years from May day 1845 YIELDING AND PAYING yearly and every year during the said term the rent or sum of 5/- without any deduction or any present or future landlord's or tenants' taxes rates assessments or impositions whatsoever or otherwise howsoever for every Ten of Coals Coke Culm or Cinders each Ten being calculated for the purposes of these Presents as containing 18 Chaldrons and one third of a Chaldron of 53 hundredweight each which shall during the said term hereby granted be conveyed pass over and along the said railways and branches or any part thereof the said rent hereby reserved to be paid half yearly at May day and Martinmas in every year for all such Coals Coke Culm and Cinders as shall have so passed during the half-year immediately preceding every such respective half-yearly day and YIELDING AND PAYING on Coals Coke Culm and Cinders conveyed from the Coal-field situated northward of the Seaton Delaval estate to the town and port of Blyth over and along such portions of the said Railways and Branches as are known by the designation of the Bedlington Branch or a part thereof the sum of 1/3 per ten of such weight as aforesaid And also YIELDING AND PAYING yearly and every year during the said term such rents or sums in respect of passengers cattle and goods (other than Coals Coke Culm and Cinders) which shall during the said term hereby granted pass over and along the said Railways and Branches or any part thereof as are next hereinafter specified that is to say for every year ending with a May day in which year the rent or sums payable by the said Company or their assigns as aforesaid in respect of Coals Coke Culm and Cinders passing over and along the said Railways and Branches or any part thereof from the Collieries or Royalties situate to the northward of the Seaton Delaval estate amount to £500 or upwards the rent of one shilling the same to be paid on such May day and for every year ending with a May day in which year the rent or sums payable by the said Company or their assigns aforesaid in respect of such last mentioned Coals Coke Culm and Cinders shall not amount to £500 a rent or

No. 6
Wayleave
Lease,
20th May,
1853.

No. 6.
Wayleave
Lease.
20th May.
1853.

sum equal to two per centum of the gross amount payable to or charged by the said Company or their assigns for or in respect of the passing and conveying along and over the said Railways and branches on the said Lessor's lands or any part thereof in the same year of Passengers Cattle and Goods (other than Coals A Coke Culm or Cinders) the same to be paid on such May day and it being agreed that the said Company and their assigns shall in all cases take a Money consideration and no other for the passing and conveyance over and along the said Railways and Branches or any part thereof of Passengers Cattle and Goods B PROVIDED ALWAYS AND IT IS HEREBY AGREED that the said yearly rent shall not be payable in respect of any Coals or other Minerals the produce of the Lessor's estates or of any things the produce of or to be used upon or in the estates or coal works belonging to the Lessor PROVIDED ALSO that in case the said C rents or sums hereby reserved or any of them or any part thereof respectively shall be behind or unpaid for 30 days next after any of the said days for payment thereof and for 10 days after the same shall during or after such 30 days have been legally demanded then and in every such case the said Lessor his heirs assigns or sequels in estate D may enter upon the said Railways and Branches and any other Railway or Railways and any Lands and Buildings for the time being occupied or used by the said Company or their assigns and distrain all or any of the Coals belonging to the said Company or their assigns that shall be found thereon and also the horses locomotive and other E engines machines waggons carriages ropes rollers and other materials and things which shall be in or upon the said Railways and Branches and other railway or railways lands and buildings respectively and whether the same things respectively shall be in actual use or not and such distresses so found may take keep lead carry away and sell and F dispose of in order to satisfy and pay the rents or sums so in arrear and also the reasonable costs and charges of such distresses and sales rendering the surplus if any on demand unto the said Company or their assigns Provided also that if the said rents or sums hereinbefore reserved or any of them or any part thereof respectively shall be G behind or unpaid for 40 days next after any of the said days for

payment thereof and for one calendar month after the same shall
 during or after such 40 days have been legally demanded then and in
 any and every such case and notwithstanding any waiver of any prior
 right of re-entry under this proviso the said Lessor his heirs assigns
 or sequels in estate if he or they shall think fit so to do into and upon
 the said Railways and Branches and other the premises hereby
 demised or intended so to be or any part thereof in the name of the
 whole may re-enter and the same thenceforth may repossess and
 enjoy and the rents issues and profits thereof may take and retain for
 his or their own benefit until thereby or otherwise he or they shall be
 fully repaid all such rents or sums so in arrear and all
 other rents or sums hereby reserved or made payable falling
 due during such repossession and all costs losses damages and
 expenses occasioned by such nonpayment re-entry and repossession
 or incidental thereto nevertheless he or they on demand after such
 full repayment permitting the said Company or their assigns again to
 possess and enjoy under these Presents the said Railways and
 Branches and every part thereof AND the said Company do hereby
 for themselves and their assigns covenant with the said Lessor his
 heirs and assigns that the said Company and their assigns will from
 time to time during the said term hereby granted pay unto the said
 Lessor his heirs and assigns or sequels in estate the said several rents
 and sums of money hereinbefore reserved on or at the several days
 and in the manner hereinbefore appointed for payment thereof
 E respectively without any deduction or abatement whatsoever on
 account of any present or future landlord's or tenant's taxes rates
 assessments charges or payments whatsoever the Landlord's Property
 tax on the said rents or sums and the Land tax if any only excepted
 or on any other account whatsoever and will so pay the same
 F according to the true intent and meaning of these presents AND
 ALSO will from time to time during the said term hereby granted
 pay and discharge all present and future landlord's and tenants' taxes
 rates assessments charges and payments whatsoever for or in respect
 of the said premises hereinbefore granted and demised or the said
 G rents or sums or any of them or any part thereof respectively
 (Landlord's Property tax on the said rents or sums and Land tax if
 any only excepted) AND ALSO will from time to time during the

No. 6.
Wayleave
Lease, 20th
May, 1893.

term hereby granted lead and carry by means of the said Railways and Branches all such Coal Coke Culm Cinders Cattle and Goods as the said Lessor his heirs assigns or sequels in estate or any other party or parties whomsoever shall at any time or times during the said term require to be led or carried away BUT nevertheless only A on payment to the said Company or their assigns of such dues for the same Coals Coke Culm Cinders Cattle and Goods as the said Company or their assigns shall from time to time be entitled to charge for the same such charge being impartially made so as not to exceed the charge for like articles passing along the line under the like B circumstances and will in all other respects duly maintain keep open for public use and work the said Railways and Branches and also will at the end of every month during the said term hereby granted make and deliver unto the said Lessor his heirs assigns or sequels in estate or his or their Agent or Agents gratis (if thereunto required by him or C them) a true and perfect account in writing under the hands of two of the Directors or Secretary of the said Company or their assigns of all such Coals Coke Culm and Cinders Passengers Cattle and Goods as shall during such month have been carried and conveyed over and along the said Railways and Branches or any part thereof AND D FURTHER that the said Lessor his heirs assigns and sequels in estate and his or their Agent or Agents from time to time and at all times during the said term hereby granted may have free access and liberty to inspect and at his or their own costs and charges to take copies of the whole or any part of the Company's Books of E Presentment and Leadings of Coals Coke Culm and Cinders and all other Books and Accounts relating to the getting and leading of Coals Coke Culm and Cinders and the conveyance of passengers with cattle and goods over and along the said Railways and Branches and every part thereof AND ALSO that the said Lessor his heirs assigns and F sequels in estate may from time to time and at any time or times during the said term hereby granted at his and their own costs and charges appoint keep and employ any person or persons as a clerk or clerks at any of the staiths to take an account in writing of all the quantities of Coals Coke Culm and Cinders which shall from time to time be led along the said Railways and Branches or any part thereof

AND ALSO will from time to time during the term whenever ^{No. 8.}
thereunto required in writing by the Lessor or the Lessor's Agent or ^{Wayleave}
Viewer make all such Sidings to and communicating with the Railway ^{Lease, 20th}
as shall be reasonably requisite and proper for the convenient ^{May, 1853.}

A occupation and management of the adjoining Estates of the Lessor
by the Owners Lessees and Occupiers thereof so that the operations
of the Lessees are not to be hindered nor the public convenience
thereby injured and will keep the same in proper repair accordingly

B AND ALSO will not make or suffer to be made any wilful or
avoidable damage or spoil of ground in or about the maintaining
altering repairing or using of the Railway or the Works or
Conveniences thereof in or to the Lessor's estates or any part thereof
or needlessly exercise any of the liberties powers and privileges
hereby granted or so exercised the same or any of them as to occasion

C any avoidable damage to those estates or any part thereof it being
agreed that the width of the Railway from fence to fence is not to
exceed sixteen yards except where cuts or embankments render a
greater width necessary or where stations or other erections are
required AND ALSO will within 12 calendar months after the

D expiration of the term at the sole expense of the Company remove
take up and carry away all and every the erections and buildings
machines engines rails sleepers stone iron wood and other materials
works and conveniences whatsoever which at the determination of
the term shall be in or upon any parts of the Lessor's estates and so

E far as the same may be practicable level and make arable and again
fit for ploughing or otherwise restore to the original condition thereof
all such parts of the Lessor's estates as in the use and exercise of
any of the liberties powers and privileges hereinbefore granted shall
have been rendered unfit for ploughing or in any other way damaged

F or otherwise in case and so far as the same shall not be practicable
will pay unto the said Lessor such compensation for not doing so as
shall be agreed upon between the parties or as in case of difference
shall be settled by Arbitration as hereinafter provided AND the said
Lessor so far as relates to the acts and deeds of himself his heirs

G assigns and sequels in estate doth hereby for himself and them
covenant with the said Company and their assigns that the said

No. 8.
Wayleave
Lease, 20th
May, 1853.

Company and their assigns paying the several rents or sums hereinbefore reserved and observing and performing the several covenants conditions and agreements herein contained and on their part to be observed and performed may peaceably and quietly have hold use occupy possess and enjoy all and every the liberties A privileges powers authorities and premises hereby granted and demised in manner aforesaid according to the true intent and meaning of these Presents at all times during the said term hereby granted without the lawful let suit hindrance interruption or disturbance of the said Lessor his heirs assigns or sequels in estate B or any person or persons lawfully claiming or to claim by from or under him or any of them PROVIDED ALWAYS that the expression "the assigns" of the said Company wherever in these Presents contained shall include or extend to any and every Company into or with which the said Company shall at any time hereafter be C merged or amalgamated and the expression "the said Company" wherever in these Presents contained shall in the event of the said Company being dissolved and re-incorporated include or extend or relate to the Company constituted by such re-incorporation AND the said Lessor so far as relates to the acts and defaults of himself D his heirs assigns and sequels in estate doth hereby for himself and them covenant with the said Company their assigns AND the said Company so far as relates to the acts and defaults of themselves and their assigns do hereby for themselves and their assigns covenant with the said Lessor his heirs and assigns that all the clauses and E provisions whatsoever of the "Railways Clauses Consolidation Act 1845" which are incorporated with the "Blyth and Tyne Railway Act 1852" shall except only so far as the same respectively may be repugnant to or inconsistent with any of the terms and provisions of these Presents and in those respects subject to those terms and F provisions operate and enure for the benefit of the said Lessor his heirs assigns and sequels in estate and the said Company and their assigns and all other persons whomsoever as fully and effectually to all intents and purposes whatsoever as if the said Company had taken and acquired the said lands on which the said Railways and G Branches are made it being the true intent and meaning of the said

- parties hereto that the said Railway and Branches shall at all times during the term hereby granted be maintained and kept open for public use and work with a due regard to the interests of the public according to those clauses and provisions and the provisions of the "Blyth and Tyne Railway Act 1852" AND ALSO that if and so often as any dispute or difference shall at any time or times hereafter arise between the said Lessor his heirs assigns or sequels in estate or any of them and the said Company or their assigns on account of the breach or the supposed breach of any of the covenants conditions or agreements herein contained or otherwise touching or concerning the construction effect incidents or consequences of these Presents or any matter or thing relating thereto the matter of every such dispute or difference as well as every matter or question hereinbefore agreed to be referred to Arbitration made by either of the parties interested therein be reduced into writing and submitted to Arbitration and shall be determined by Arbitration according to the clauses and provisions in that behalf of the "Lands Clauses Consolidation Act 1845" and those clauses and provisions shall accordingly be deemed to be part of these Presents.
- D IN WITNESS whereof the said Lessor hath hereunto set his hand and seal and the said Company have hereunto affixed their Common Seal the day and year first above written.

The Common Seal of the Blyth
and Tyne Railway Company
E is affixed hereto by order of
the Directors.

JOHN CAIR

Chairman

Signed sealed and delivered by
F the within named Jacob Lord
Hastings in the presence of

THOS. JOHN TAYLOR
Earsdon

Mining Agent of

Jacob Lord Hastings

G

H. K. HOMFRAY

Solicitor to Lord Hastings

No. 18 Margaret Street

Cavendish Square

London



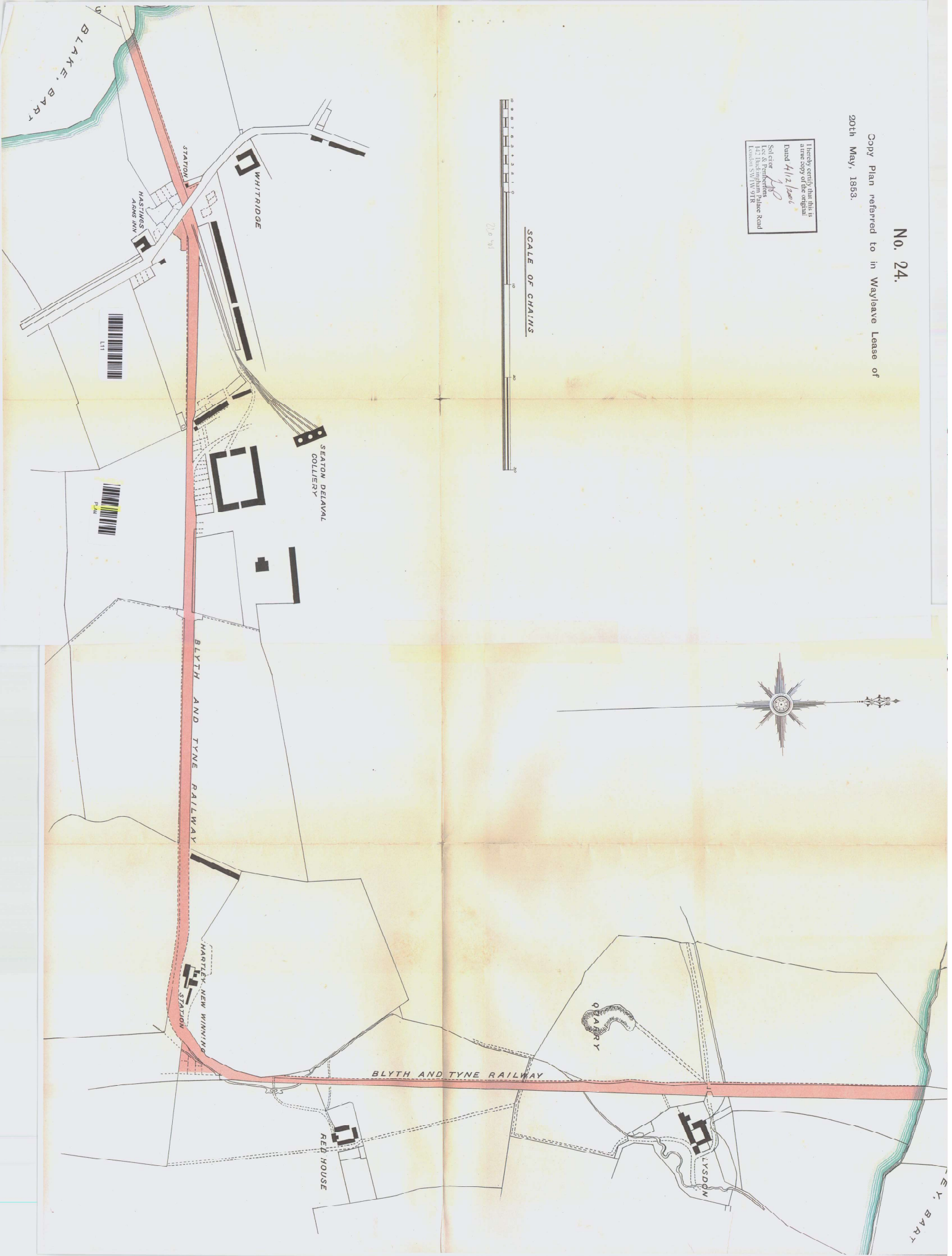
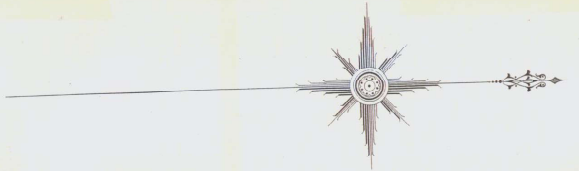
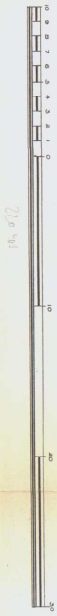
HASTINGS

No. 24.

Copy Plan referred to in Wayleave Lease of
20th May, 1853.

I hereby certify that this is
a true copy of the original
Dated 4/12/1856
Sold at
Lee & Pennington
142, Fleet Street, London
E.C. 4

SCALE OF CHAINS.



APPENDIX B

The Duke of Northumberland
to
The Blyth and Tyne Railway Company

**Extract from Grant of Alteration
in Wayleaves dated 29th July 1867**

<p style="text-align: right;">1</p> <p>Standard of 15000 Tens p.a. at 5/- per ten.</p> <p>Standards of 10,000 tens per annum at 2/6 per ten.</p> <p>Rebate of 1/3 per ten for small indentures in the 15000 + 10000 standards. Rebate never to exceed the amount of rent deliver from the 2/6 ten.</p> <p>Rebate to be allowed on the 25 day of March in each year.</p>	<p>That from and after the 25th day of March 1867 the way leave rents by the said? indentures of lease reserved in respect of coals coke culm and cinders shall be altered and from and after that day there shall be paid by the company yearly and every year at the times and in manner by the said sealed indentures respectively provided for payment of the way leave rents coals coke culm And cinders thereby respectively reserved in being there of the way leave rents following that is to say for every ten of coals coke culm And cinders (each ten consisting 17½ Newcastle Chaldrons of 53 cwt each) which shall pass in each year over or along the railways of the company comprised in or referred to in the said sealed indenture or any part of such railways construction over or upon the land of the said Duke up to and not exceeding in the aggregate in each year 15000 tens the rent or sum of 5"/ per ten and for every additional ten of coals coke culm and cinders exceeding 15000 tens which may pass in the same year come over and along the said railways or any part thereof up to and not exceeding 10,000 additional tens the rent or sum of 2/6 per ten. Provided that out of the way leave rent for such additional tens up to 10,000 tens a return shall in each year be made to the company of 1/3 for every ten of small coals indentures in the said 15000 tens as well as in the said additional quantity exceeding 15000 tens up to 10000 tens as aforesaid if the aggregates amount of the rent of 2/6^{sd} per ten in respect of the 10000 additional tens or of any additional quantity less than 10000 tens which shall so pass shall be sufficient to allow of each return being made but if not sufficient in any year to admit of the full return no return shall be made either in that or any other years in respect of that year beyond the said aggregate amount of the said rent of 2/6 per ten . Provided that such return of 1/3 per ten in respect of such small coals shall be considered to be due and payable to the company on the 25th day of March in each year and the half years rent due on the 29th day of Sept in each year shall be payable in full subject to such subsequent to return as aforesaid if any.</p>
<p style="text-align: right;">2</p> <p>For all coals to in excess of the quantities of the 5"/ + 2/6 standards of 15000 ten + 10000 tens respectively – there shall be paid for.</p>	<p>And for every ten of coals coke culm or cinders which shall pass in the same year over or along the said Railways or any part thereof exceeding the quantity of 25000 tens (being the aggregates of the said 15000 tens and 10000 additional tens) the following way leave rents shall be payable by the company (that is to say) for all longer or round coals and for all coke culm and cinders the sum of 1"/ per ten and for all small coals the sum of 6 per ten.</p>
<p style="text-align: right;">3</p>	<p>For the purposes of these presents "large of round coals" shall be taken to mean all coals that will not pass through a screen the wires of which are not more than 5/8 of an inch apart and</p>

	<p>"small coals" shall be taken to mean all coal that will pass through each screen.</p>
4	<p>Provided always that if any coal coke or cinders arising in or from any of the <u>lands edged round with a pink colour</u> on the plan hereunto a amend (and herein called "Extra Coals Coke Culm or Cinders") in respect of which identical coals coke culm or cinders there shall not for the time being be payable to the paid Duke his heirs assigns or sequels in estate any other way leave rent for passing over or long any way leave line of railway over or upon this or there lands other than any railway company or part thereof shall hereafter pass over or along any railways of the company or any part thereof comprised in or referred to in the paid seal indentures of lease then all such last mentioned coals coke culm and cinders shall never be indentures in or form or part of the before mentioned quality of 15000 tens or of the said other quantities in excess of the said 15000 tens but 5"/ per ten shall always be payable in respect of all such last mentioned coal coke culm and cinders provided further that if it shall happen that a way leave rent less than 5"/ per tens would have been payable to the said Duke his heris assigns or sequel in estate in respect of any part of such extra coals coke culm or cinders in case the same had been conveyed by and had been the coals coke culm or cinders then usually conveyed by the way leave railway or tramway in use nearest to the place whence such part of such extra coal coke culm or cinders shall arise and passing over or through any of the lands of the said Duke sequel in estates or assigns other than any railways of the company or any part there of then and in each such case in respect of such identical extra coal coke culm or cinders in lieu of 5"/ per ten there shall be payable and paid by the said company to the said Duke his heirs assigns or sequel in estate in respect thereof such an amount per ten as shall be equal to the way leave rent which he or they would have been entitled to if such identical extra coals coke culm or cinders had been actually conveyed by and had been coals coke culm or cinders usually conveyed by such way leave railways or tramway in use nearest as aforesaid over or through any of the lands of the lands of the said Duke his heirs assigns or sequels in estates other than as aforesaid but respect of all other extra coals coke culm or cinders 5"/ per ten shall be and continue to be payable and paid as aforesaid</p>

APPENDIX C

[REDACTED]

From: [REDACTED]
Sent: 20 May 2021 14:55
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Blyth & Tyne Railway
Attachments: 2019 03 25 0036 Mar 2019 - Annual Rent cn.pdf; 2020 03 25 0037 Mar 2020 - Annual Rent cn.pdf; 2021 03 25 0038 Mar 2021 - Annual Rent cn.pdf

Dear [REDACTED]

I refer to my email below and attach three rent demands for the last three years. As you are aware, no rent has been received over the last three years which is totally unacceptable but I am pleased that we have now agreed the rent for the transport of biomass. I would be grateful to receive early payment.

Kind regards

[REDACTED]

[REDACTED]
Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP
[REDACTED]



From: [REDACTED]
Sent: 22 March 2021 08:57
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Blyth & Tyne Railway

Dear [REDACTED]

I refer to my emails below dated 15 February 2021 and 26 February 2021 and earlier correspondence with you dating back to June 2020.

I have suggested a reasonable annual rent charge of £196,792 for the transportation of biomass (woodchip) across the Northumberland Estates' section of the Blyth and Tyne railway. This equate to approximately £281 per train journey which is not unreasonable.

I have never received any offer in relation to Biomass from Network Rail for the last three years and yet you continue to use our section of the line for the transportation of biomass without any agreement to do so.

If I do not hear from you by 25 March 2021 (next rent day), I will assume that the rental offer above is acceptable and issue invoices on this basis.

Kind regards

[REDACTED]



From: [REDACTED]
Sent: 26 February 2021 15:49
To: [REDACTED]
Subject: FW: Blyth & Tyne Railway

Dear [REDACTED]

I would be grateful for a response to my email below. I have also not received any tonnages.

Kind regards

[REDACTED]



From: [REDACTED]
Sent: 15 February 2021 17:09
To: [REDACTED]
Subject: RE: Blyth & Tyne Railway

[REDACTED]

Thank you. What about agreeing a rate for Woodchip/Biomass? I recall that you were going to look at the income you received from freight companies using the line for this purpose and then apply this to the Estate's 3 mile section – this could possibly give us an annual rent regardless of tonnage (depending on the figure) and you should have regard to the Estates ransom position. You may recall that I have already set out my views on this to [REDACTED] as follows:

“Woodchips/biomass are sent to Lynemouth Power Station (via the Blyth and Tyne Railway line) for the production of electricity similar to the coal that crossed the line (i.e. the line is still being used for principally the same reason – material to produce electricity). We already have a method for calculating the coal wayleave and we could just bring this up to date (given that the current rate was agreed approximately 150 years ago) and apply it to the tonnage of woodchips/biomass that have crossed the line and use this figure as the annual rent (subject to review). As you are aware, we have previously looked at this and I attach a copy of a letter dated 28 July 2010 which puts forward a compelling argument for a significant uplift in the rents associated with coal wayleave. You will note that we have previously suggested the following uplifts:

- a) £10.00 per ten for the first 15,000 tens of coal conveyed in any year (i.e. 21.90 pence per tonne for the first 706,755 tonnes) and £5.00 per ten for the following 10,000 tens of coal (i.e. 10.95 pence per tonne for the following 471,170 tonnes)

- (N.B. 1 ten equates to 46.375 tons)

£0.2190 x 706,755 tonnes = £154,779.35
£0.1095 x 383,685 tonnes = £42,013.51
£196,792.86 per annum

I look forward to hearing from you.

Kind regards



Subject: RE: Blyth & Tyne Railway

Afternoon [REDACTED]

I hope that I shall be able to come back to you soon.

Kind Regards,



Page 19

From: [REDACTED]

Sent: 15 February 2021 16:28

To: [REDACTED]

Subject: Blyth & Tyne Railway

Dear [REDACTED]

Do you have any update following our recent telephone call? I have a meeting with the Estate's solicitors on Wednesday and it would be good to hear from you.

Kind regards

[REDACTED]

[REDACTED]

Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP

[REDACTED]



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114

City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP



Cc: [REDACTED]

Dear [REDACTED]

I trust the above is satisfactory and if you have any questions please do not hesitate to contact me.

103

City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP



To: [REDACTED]

Hi [REDACTED]

My understanding is that we NR set up a mandate to pay the sum referred to in my email could I ask you to please check with your accounts department

This I believe set up following a resolution of the outstanding six years charges due to the Estate
Kind regards

■

Sent from my iPhone

On 27 Mar 2020, at 13:24, ■ wrote:

Good Afternoon ■

Further to your email below addressed to my colleague ■, we have not received a payment in connection with the year 2019/2020 as we have not yet received the tonnage figures for year end up to 25 March 2020. I would therefore be grateful to receive a statement setting out the quantities of coal, coke and wood pellets led over the above during the year ending 24 March 2020. Following receipt of these figures, I will issue a Surface Wayleave Rent Demand.

I trust the above to be in order and if you have any further questions please do not hesitate to contact me.

Kind Regards

■

■
Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP
■

<image001.jpg>

<image002.png>

<image003.png>

<image004.png>

<image005.png>

<image006.png>

From: ■
Sent: 28 February 2020 10:17
To: ■

■
■

Subject: FW: RENT Payable Duke of Northumberland

Hi ■

**Trustees of the Duke of Northumberland 1972 Settlement
(Grandchild's Appointment) Blyth and Tyne Wayleave**

Further to the above are you able to confirm receipt of a payment of £6243.95 in respect to the year 2019 / 2020, it appears when we resolved the rent payable the above sum was set up to be paid annually to a/c No 80055484, the above sum exceeds the amount stated in your letter of the 20th September 2019.

With respect to further discussions with you relating to the Biomass it is intended that a colleague of mine [REDACTED] will take these discussions forward with you and I will be in touch shortly to set up a meeting.

Look forward to hearing from you.

Regards

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

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This email should not be used by anyone who is not an original intended recipient, nor may it be copied or disclosed to anyone who is not an original intended recipient.

[REDACTED]

From: [REDACTED]
Sent: 22 March 2021 08:57
To: [REDACTED]
[REDACTED]
Subject: FW: Blyth & Tyne Railway

Dear [REDACTED]

I refer to my emails below dated 15 February 2021 and 26 February 2021 and earlier correspondence with you dating back to June 2020.

I have suggested a reasonable annual rent charge of £196,792 for the transportation of biomass (woodchip) across the Northumberland Estates' section of the Blyth and Tyne railway. This equate to approximately £281 per train journey which is not unreasonable.

I have never received any offer in relation to Biomass from Network Rail for the last three years and yet you continue to use our section of the line for the transportation of biomass without any agreement to do so.

If I do not hear from you by 25 March 2021 (next rent day), I will assume that the rental offer above is acceptable and issue invoices on this basis.

Kind regards

[REDACTED]

[REDACTED]
Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP
[REDACTED]



From: [REDACTED]
Sent: 26 February 2021 15:49
To: [REDACTED]
Subject: FW: Blyth & Tyne Railway

Dear [REDACTED]

I would be grateful for a response to my email below. I have also not received any tonnages.

Kind regards

[REDACTED]

[REDACTED]
Wardell Armstrong LLP





From: [REDACTED]
Sent: 15 February 2021 17:09
To: [REDACTED]
Subject: RE: Blyth & Tyne Railway

[REDACTED]

Thank you. What about agreeing a rate for Woodchip/Biomass? I recall that you were going to look at the income you received from freight companies using the line for this purpose and then apply this to the Estate's 3 mile section – this could possibly give us an annual rent regardless of tonnage (depending on the figure) and you should have regard to the Estates ransom position. You may recall that I have already set out my views on this to [REDACTED], as follows:

"Woodchips/biomass are sent to Lynemouth Power Station (via the Blyth and Tyne Railway line) for the production of electricity similar to the coal that crossed the line (i.e. the line is still being used for principally the same reason – material to produce electricity). We already have a method for calculating the coal wayleave and we could just bring this up to date (given that the current rate was agreed approximately 150 years ago) and apply it to the tonnage of woodchips/biomass that have crossed the line and use this figure as the annual rent (subject to review). As you are aware, we have previously looked at this and I attach a copy of a letter dated 28 July 2010 which puts forward a compelling argument for a significant uplift in the rents associated with coal wayleave. You will note that we have previously suggested the following uplifts:

- a) £10.00 per ten for the first 15,000 tens of coal conveyed in any year (i.e. 21.90 pence per tonne for the first 706,755 tonnes) and £5.00 per ten for the following 10,000 tens of coal (i.e. 10.95 pence per tonne for the following 471,170 tonnes)
- b) any coal in excess of 25,000 tens attracts a wayleave of £2.00 per ten (i.e. 4.38 pence per tonne for any coal in excess of 1,187,450 tonnes).

(N.B. 1 ten equates to 46.375 tons)

In the previous 12 months, the quantity of woodchips/biomass that crossed the line equated to 1,090,440 tonnes (699 train journeys) and based on the above this would equate to an annual rent as follows:

£0.2190 x 706,755 tonnes = £154,779.35
£0.1095 x 383,685 tonnes = £42,013.51
£196,792.86 per annum

This figure also equates to just £281.53 per train journey which doesn't seem unreasonable given that freight companies will be charging approximately £10,000 per journey less whatever they pay Network Rail. You will also note that I have not made any allowance for coal traffic."

I look forward to hearing from you.

Kind regards

[REDACTED]



From: [REDACTED]
Sent: 15 February 2021 16:42
To: [REDACTED]
Subject: RE: Blyth & Tyne Railway

OFFICIAL

Afternoon [REDACTED]

Yes, unfortunately I found out that the person who was providing the figures to [REDACTED] has retired and therefore my request was not being dealt with. I have therefore found his replacement and he is looking out the figures for the period May 2019 to date.

I hope that I shall be able to come back to you soon.

Kind Regards,



[REDACTED]
[REDACTED]
Network Rail Property | Eastern Region
George Stephenson House, Toft Green, York, YO1 6JT
[REDACTED]

From: [REDACTED]
Sent: 15 February 2021 16:28
To: [REDACTED]
Subject: Blyth & Tyne Railway

Dear [REDACTED]

Do you have any update following our recent telephone call? I have a meeting with the Estate's solicitors on Wednesday and it would be good to hear from you.

Kind regards

[REDACTED]



[REDACTED]

From: [REDACTED]
Sent: 26 February 2021 15:49
To: [REDACTED]
Subject: FW: Blyth & Tyne Railway
Attachments: [REDACTED]

Follow Up Flag: Follow up
Flag Status: Flagged

Dear [REDACTED]

I would be grateful for a response to my email below. I have also not received any tonnages.

Kind regards

[REDACTED]

[REDACTED]
Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP
[REDACTED]



From: [REDACTED]
Sent: 15 February 2021 17:09
To: [REDACTED]
Subject: RE: Blyth & Tyne Railway

[REDACTED]

Thank you. What about agreeing a rate for Woodchip/Biomass? I recall that you were going to look at the income you received from freight companies using the line for this purpose and then apply this to the Estate's 3 mile section – this could possibly give us an annual rent regardless of tonnage (depending on the figure) and you should have regard to the Estates ransom position. You may recall that I have already set out my views on this to [REDACTED], as follows:

"Woodchips/biomass are sent to Lynemouth Power Station (via the Blyth and Tyne Railway line) for the production of electricity similar to the coal that crossed the line (i.e. the line is still being used for principally the same reason – material to produce electricity). We already have a method for calculating the coal wayleave and we could just bring this up to date (given that the current rate was agreed approximately 150 years ago) and apply it to the tonnage of woodchips/biomass that have crossed the line and use this figure as the annual rent (subject to review). As you are aware, we have previously looked at this and I attach a copy of a letter dated 28 July 2010 which puts forward a compelling argument for a significant uplift in the rents associated with coal wayleave. You will note that we have previously suggested the following uplifts:

- a) £10.00 per ten for the first 15,000 tens of coal conveyed in any year (i.e. 21.90 pence per tonne for the first 706,755 tonnes) and £5.00 per ten for the following 10,000 tens of coal (i.e. 10.95 pence per tonne for the following 471,170 tonnes)

- (N.B. 1 ten equates to 46.375 tons)

£0.2190 x 706,755 tonnes = £154,779.35
£0.1095 x 383,685 tonnes = £42,013.51
£196,792.86 per annum

I look forward to hearing from you.

Kind regards



OFFICIAL

Yes, unfortunately I found out that the person who was providing the figures to [REDACTED] has retired and therefore my request was not being dealt with. I have therefore found his replacement and he is looking out the figures for the period May 2019 to date.

I hope that I shall be able to come back to you soon.

Kind Regards,



Page 29

From: [REDACTED]

Sent: 15 February 2021 16:28

To: [REDACTED]

Subject: Blyth & Tyne Railway

Dear [REDACTED]

Do you have any update following our recent telephone call? I have a meeting with the Estate's solicitors on Wednesday and it would be good to hear from you.

Kind regards

[REDACTED]

[REDACTED]

Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP

[REDACTED]



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If you have received this email by mistake please notify us by emailing the sender, and then delete the email and any copies from your system.

Liability cannot be accepted for statements made which are clearly the sender's own and not made on behalf of Network Rail.

Network Rail Infrastructure Limited registered in England and Wales No. 2904587, registered office Network Rail, 2nd Floor, One Eversholt Street, London, NW1 2DN

Our ref: JLI/MS/NT02144/0108

Date: 28 July 2010

Your ref:



Network Rail
Prudential House
28 – 40 Blossom Street
York
YO24 1GJ

Without Prejudice

Dear Mr 

**Trustees of the Duke of Northumberland 1972 Settlement (Grandchild's Appointment)
Blyth & Tyne Wayleave**

Further to our discussions last summer, I note that I have not confirmed my client's view on your offer of a capital sum. The Estate has considered your proposal and I confirm that they are not interested in progressing matters on this basis. Furthermore, they remain of the view that the wayleave rents payable under the Agreement do not reflect market value and I am instructed to request a review of the payments for coal transported along the railway line.

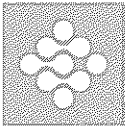
I understand from your email dated 30 April 2009 that you consider the current arrangement is equitable because you believe that a premium would have been paid at the time of the original Agreement (i.e. 1853). I have reviewed our records and can find no reference to a premium being paid, but if you have evidence to the contrary, I would be grateful for details. Notwithstanding the position in 1853, my clients feel that wayleave rents set 140 years ago (as set out in the Grant of Alteration dated 1867) cannot be equitable in a modern context.

The current wayleave rents may be summarised as follows:

- a) 25 pence per ten for the first 15,000 tens of coal conveyed in any year (N.B. 1 ten equates to 46.375 tons) and 12.5 pence per ten for the following 10,000 tens of coal, both rates being subject to a rebate of 6.25 pence per ten for any small coal; and
- b) any coal in excess of 25,000 tens attracts a wayleave of 5 pence per ten for round coal and 2.5 pence per ten for small coal.

The rents set out under a) above equate to approximately 0.005 pence per ton and 0.0027 pence per ton respectively. The rents set out under b) above equate to approximately 0.0001





pence per ton and 0.0005 pence per ton respectively. In addition to the above, we invoice Network Rail for a fixed "on account" payment of £100 per annum. This payment has been reduced over the years to take account of the falling level of activity along the line and was last reduced in May 2002 (i.e. from £500 to the current level).

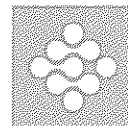
My firm has a long history of managing coal leases on behalf of mineral owners and based on information held at this office, I understand that coal royalties between 1860 to 1890 were in the region of 5d per ton, which today converts to approximately 2.07 pence per ton. The wayleave rents of 0.005 pence per ton and 0.0027 pence per ton therefore equate to approximately 24% and 13% of the passing coal royalty. As you may be aware, coal is now owned by the state and managed by the Coal Authority. Nevertheless, landowners receive payments for coal which are designed to reflect the temporary disturbance of the land/loss of land use. Payments are usually linked to the quantity of coal extracted from beneath the land and current tonnage/wayleave payments are in the region of £2.00 per tonne (i.e. £2.03 per ton). Assuming the same principles above, this would equate to revised wayleave rents of 48 pence per ton and 26 pence per ton (i.e. £22.26 per ten and £12.05 per ten respectively).

An alternative basis of review would be to consider the relationship between coal prices and wayleave rents. The coal price in 1869 was approximately 9 shillings per ton, which today converts to approximately 45 pence per ton. The wayleave rents of 0.005 pence per ton and 0.0027 pence per ton therefore equate to approximately 1.1% and 0.6% of the selling price. The current selling price of coal is approximately £44 per tonne and if the above principle is applied, this would equate to revised wayleave rents of 48 pence per ton and 26 pence per ton (i.e. £22.26 per ten and £12.05 per ten respectively).

The above market evidence puts forward a compelling argument for a significant uplift in the rents. I appreciate that an uplift of this magnitude may be considered too extreme by your Company but my clients feel that they are not being compensated for the ongoing use of the wayleave. By way of compromise, I therefore suggest the following uplifts:

- a) £10.00 per ten for the first 15,000 tens of coal conveyed in any year (N.B. 1 ten equates to 46.375 tons) and £5.00 per ten for the following 10,000 tens of coal, both rates being subject to a rebate of £2.50 per ten for any small coal; and
- b) any coal in excess of 25,000 tens attracts a wayleave of £2.00 per ten for round coal and £1.00 pence per ten for small coal.

I believe the above proposal is reasonable, especially when you consider the Estate has, to date, waived their right under the Agreement to charge a wayleave for other traffic equating to 2% of the fares charges for passengers, cattle and goods. With regard to passenger traffic, it should be noted that a branch of the Blyth and Tyne line forms part of the Tyne and Wear Metro System and is sub-leased to Nexus (formerly the Tyne and Wear Passenger Transport Executive). For your information, I enclose a copy of a letter from



British Rail Property Board dated 5 March 1975 confirming that part of the Blyth and Tyne Railway forms part of the North Tyneside Circular (i.e. the metro system) where the board hold part of the railway formation from the Duke of Northumberland. I also enclose a copy of typed transcript of a hand written deed held by my firm which sets out the 2% charge (see page 12).

Whilst writing, I would be grateful to receive a statement setting out the quantities of coal and coke led over the above during the year ending 24 March 2010. Following receipt of these figures, I will issue a Surface Wayleave Rent Demand. In the past I have obtained these figures directly from the various freight companies who use the line, however, at the last rent day, I encountered problems obtaining such figures from these companies, in particular Freightliner. Given that your Company are the successor to The Blyth and Tyne Railway Company, it is your Company's responsibility under the terms of the Agreement to provide the relevant information and I would appreciate your co-operation in this matter.

I look forward to hearing from you.

Yours sincerely
for Wardell Armstrong LLP

██████████
Senior Minerals Surveyor
████████████████████

Encl. Letter from British Rail Property Board dated 5 March 1975
Typed transcript of hand written deed

cc. ██████████ Network Rail

Clavering Place
Newcastle-upon-Tyne 1
NE1 3NG
Newcastle (STD. 0632) 611234 Ext.

2792

A S E Bradfield FRICS
Estate Surveyor & Manager
F. Beaney, F.R.I.C.S.
Estate Surveyor (Newcastle)

J M Clark & Partners
Chartered Surveyor
Archbold House
Archbold Terrace
Newcastle upon Tyne
NE2 1DR

RECEIVED	
- 6 MAR 1975	
DEALT WITH	INITIALS

46.375 tons
= 1 ton

1st 15,000 tons 25p per ton
10,000 tons 12.5p
Rebate on small 6.25p per ton

Date 5 March 1975

y/r

o/r

S/TB/VC

Dear Sirs

Simplex Circular & Letter 5p per ton
" Small 2.5p

RE : TYNE AND WEAR METRO SYSTEM

I refer to recent telephone conversation between Mr Gibbons and my representative Mr Bowes on the above subject. As you will be aware the Tyneside Metropolitan Railway Act, 1973, empowers the Tyne and Wear Passenger Transport Executive to construct a rapid transit system the main part of which will be routed over existing British Railways Board tracks.

The section of railway I wish to refer to in this letter is that part of the former Blyth and Tyne railway system now described as the North Tyneside Circular. In particular I am interested in the section between Benton and Tynemouth (via Monkseaton) where this Board hold parts of the railway formation from the Duke of Northumberland under various wayleave leases in respect of which His Grace is paid on the basis of Tentale rents.

In order to comply with the statutory powers conferred by the Metro Railway Act, 1973, this Board is considering leasing to the P T E for a term of years the existing railways involved. This would, of course, include the lands held by the Board on lease of wayleave terms from the Ducal Estate which arrangements you will appreciate, still have a considerable time to run.

It is assumed that His Grace is agreeable in principle to the proposed rapid transit system over Board controlled railways since I have not been advised of any objections to the Metro scheme when this was being progressed at Bill stage through the Parliamentary procedures. However, it would seem to me that I should now approach you as Agents for the Ducal Estate on the following two aspects:-

- (i) Permission for this Board to sub-lease to the P T E the section of wayleave held railway formation and
- (ii) the position relating to the Tentale rents since the P T E will not, of course, be transporting any coal over the lines.

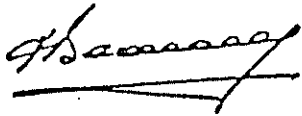
Obviously there will have to be meetings between your goodselves and the Board in order to progress the matter but in order to get the case off the ground could I please now look to you for confirmation on item (i) above. With regard to item (ii), I am endeavouring to carry out certain research into the present day method of calculating the Tentale rents and to this end my representative is to meet Messrs William Armstrong and Sons who look after this aspect for His Grace. Mr Gibbons will recall that this point was referred to in his telephone conversation with Mr Bowes.

RECEIVED 2 DEC 1975

5 March 1975

I think that I have covered in this letter the main points to be resolved by way of preliminaries and I would welcome any comments you may wish to make at this stage.

Yours faithfully

A handwritten signature, likely "J M Clark", written in dark ink. The signature is stylized with a long horizontal stroke extending to the right.

Typed Transcript of hand-written deed held by WA entitled:

**His Grace The Duke of Northumberland
and
The Blyth and Tyne Railway Company**

**Copy Draft Lease for 1000 years of lands required for Railway authorised by
"The Blyth and Tyne Railway Act 1867"**

"The Company's Seal was attached to this Lease on the 4th January 1872"

Page 1	This indenture made the 4 th day of May in the year of our Lord 1872 Between The Most Noble Algernon George Duke of Northumberland of the one part and The Blyth and Tyne Railway Company (hereinafter called the company) of the other part Witnesseth that in presence of a contract duly entered into between the said Duke and The Company by an indenture dated the 31 st day of July 1867 and in consideration of the rents herein reserved and of the costs conditions and agreements herein contained and on the part of the said Blyth and Tyne Railway Company and their assigns to be observed and performed. The said Duke of Northumberland by these present as well by virtue of any power enabling him in this behalf as in respect of his estate and interest doth grant unto the Company and their assigns (subject nevertheless to the Company compensating all tenants and paying for all buildings which may be required to be taken or injuriously affected by The Company) full wayleave or right of way
Page 2	and liberty power and authority to for the Company and their assigns to make and construct so much and such parts of the Railway and works as are to pass through the lands and grounds of the said Duke and as are comprised in the following description in the Blyth and Tyne Railway Act 1867 that is to say <u>North Shields Branch</u> - a Railway 1 mile 2 furlongs and 120 yards or thereabouts in length commencing in the Township of Tynemouth in the parish of Tynemouth by a junction with the Tynemouth Extension of the Blyth and Tyne Railway and terminating in North Shields in the County of Northumberland at or near the North side of the street called Tyne Street <u>Walbottle Branch</u> - a Railway 4 miles 6 furlongs 143 yards or thereabouts in length commencing in the Township of South Gosforth in the Chapelry or Parish of Gosforth in the Parish of St. Nicholas in the County of Northumberland by a junction with the Branch of the Blyth and Tyne Railway leading from Hotspur Place to
Page 3	Newcastle Upon Tyne and terminating at a point at or near the Steam or Riverlet called the Ouseburn in the township of Butterlaw and Parish of Newburn in the said County of Northumberland <u>Tynemouth Dock Branch</u> - a railway 1 mile 40 yards in length commencing in the Township of Tynemouth in the Parish of Tynemouth in the County of Northumberland by a junction with the Tynemouth

	Extension of the Blyth and Tyne Railway and terminating in an intended Dock authorised to be constructed by the Tyne Improvement Committee (and which said parts of the said Railways and works as are to pass through the lands and grounds of the said Duke are herein called and intended by the expression "the said Branch Railways") upon the lands of the said Duke in that behalf described upon the plans and in the Books of Reference referred to in the said Act being the "Blyth and Tyne Railway Act 1867" but so that the Company or their
Page 4	assigns shall not in constructing the said Branch Railways deviate from the line and situation laid down in a Red colour on the Plan No.1 drawn on these Presents without the consent of the said Duke his heirs and assigns or sequels in estate but with such consent the said Company or their assigns may in constructing the said Branch Railways deviate from the line and situation so laid down on the said last mentioned plan provided that every deviation shall be made within the limits of deviation laid down upon the Plans first hereinbefore mentioned and the Company or their associates shall not be entitled without such consent to occupy more in width of such land or any part of the said Lands than the widths respectively shown by a Red Colour on the said Plan No.1 drawn on these presents and to enter upon and use from time to time to amend repair the said Branch Railways in the usual manner in through over and along the said Lands and Grounds of
Page 5	the said Duke upon which the said Branch Railways shall be so constructed for the leading conveying and carrying with Engines Wagons W??? Trucks and other Carriages over and along the said Branch Railways of Coal Coke Culm Cinders Cattle and other Goods into any place or places whatsoever and also for the leading conveying and carrying of carriages and passengers (except railways reserved forth and out of this present demise as part of the compensation for the way leave rights powers and privileges hereby demised or intended so to be full and free liberty licence and power for the said Duke his heirs and assigns and sequels in estate and his and their Agents Workmen and Servants from time to time and at any time or times hereafter as often as he or they may think proper to construct use fix and repair other Railways and other ways and to make and lay the same respectively on any part or parts thereof over under or across the said Branch Railways and to use the same respectively
Page 6	said always that the Wagons and Traffic of the Company and their assigns on the said Branch Railways or any part thereof be not thereby injuriously hindered and said always that the interest of the Public be not thereby injuriously affected) To have and to hold to said wayleave liberties privileges and authorities and all singular other the premises hereby granted or expressed or intended so to be with the Company and their assigns for the term of 1000 years to be so computed from the twenty-fifth day of March 1866 and thenceforth next ensuing and fully to be

	complete and ended Yielding and Paying yearly and every year during the said term (each year to be considered as commencing from the 25 th day of March) as follows that is to say for all Coals Cokes Culm and Cinders hereinafter described or referred to as "The Extra Coal Coke Culm and Cinders" which shall during each year of the said term hereby granted pass over or along the said Branch Railways or any part thereof and in
Page 7	respect of which identical Extra Coals Coke Culm and Cinders there shall not for the time being be payable to the said Duke his heirs assigns or sequels in estate any other wayleave rent for passing over or along any wayleave line of Railway over or upon his or their lands other than any Railways of the Company or any part thereof the rent or sum of 5/- per ten (each ten being calculated for the purpose of these presents as consisting of 17½ Newcastle Cauldrons of 53 cwt each) and for all other Coals Coke Culm and Cinders which shall during each year of the said term of hereby granted pass over or along the said Branch Railways or any part thereof and in respect of which identical other coals coke culm or cinders there shall not for the time being be payable to the said Duke his heirs assigns or sequels in estate or any of them for passing over or along the said Blyth and Tyne Railway or any part thereof or the said Branch Railways or any part thereof any Wayleave rent or other sum reserved by any other Wayleave Lease or Agreement already made by
Page 8	the said Algernon George Duke of Northumberland or his predecessor George and Algernon late Dukes of Northumberland or either of them and for the time being subsisting the following wayleave rents or sums that is to say for every ten (calculated as aforesaid) of such other Coals Coke Culm and Cinders which shall so pass in each year up to and not exceeding in the aggregate in each year 15,000 tens of such other Coals Coke Culm and Cinders the rent or sum of 57 ten and if in the same year more than 15,000 tens of such other coals coke culm and cinders shall so pass then for every such additional ten which shall so pass in the same year in excess of such 15,000 tens up to and not exceeding 10,000 such tens in excess as aforesaid the rent or sum of 2/6 per ten and if in the same year more than 10,000 such additional tens in excess as aforesaid shall so pass then for every such ten which shall so pass in the same year in excess of such 10,000 tens the rents or sums following that is to say for every such ten of large or round Coals and of Coke Culm and Cinders
Page 9	the rent or the sum of 1/- and for every such ten of small Coals the rent or sum of 6d and all the rents or sums reserved by these presents shall be payable and paid half yearly on the 29 th day of Sept and the 25 th day of March in each year and the 1 st half yearly payment in each year shall be made on the 29 th day of September for the number of tens as aforesaid which shall have so passed up to

	that day and the payment of the balance of such rents or sums due in prospect of the whole of each year shall be made on the 25 th day of March and in ascertaining such balance the proviso next hereinafter contained shall apply. Provided always and it is hereby agreed and declared between and by the parties hereto that in respect of each year in which more than 15,000 tens of such other Coals Coke Culm and Cinders shall so pass it shall be ascertained how many tens of small Coals were comprised in the said 15,000 tens which shall so pass in that year and how many tens of small Coals were comprised in the said tens in
Page 10	excess of 15,000 tens up to and not exceeding 10,000 tens so in excess and a return of 1/3 for or in respect of every ten of small Coals so to be ascertained shall be made or allowed to the said Company out the rents or sums payable in respect of that year for the said tens in excess of the said 15,000 tens up to and not exceeding 10,000 tens so in excess but such return shall not be made or allowed out of the rents or sums payable for the said 15,000 tens nor out of the rents or sums payable for any such tens beyond 10,000 tens so in excess it being hereby expressly agreed and declared that if the rent or sums payable in that year for the said tens in excess of the said 15,000 tens up to and not exceeding 10,000 tens so in excess shall not in the aggregate be of sufficient amount to provide such return in full than what would otherwise have been the aggregate amount of such return shall be reduced to and shall be deemed to be satisfied by the amount of the rent or sums payable in that year for the
Page 11	said tens in excess of the said 15,000 tens up to and not exceeding 10,000 tens so in excess and if in any year there shall not be any such tens in excess of such 15,000 tens then as such return as aforesaid shall in that or any other year be made for or in respect of that year and for the purpose of these Presents "large or round Coals" shall be taken to mean all coals that will not pass through a screen the wires of which are not more than 5/8ths of an inch apart and "small Coals" shall be taken to mean all Coals that will pass through such screen AND ALSO YIELDING AND PAYING yearly and every year during the said term in respect of Passengers Cattle and Goods (other than Coals Coke Culm and Cinders) which shall during the said term hereby granted pass over and along the said Branch Railways or any part thereof as next hereinafter specified (that is to say) for every year ending with the 25 th day of March in which year the rents or sums payable by the Company or their assigns as aforesaid in respect of Coals
Page 12	Coke Culm and Cinders passing over and along the said Blyth and Tyne Railway or any part thereof and the said Branch Railways or any part thereof, both or either of them from the Cowpen Colliery and Collieries or Royalties situate to the Northward of the River Blyth amount to £500 or upwards the rent of 1/- the same to be paid on the 25 th day of March in each year and for every year ending with

	the 25 th day of March in which year the rents or sums payable by the Company or their assigns as aforesaid in respect of such last mentioned Coals Coke Culm and Cinders shall not amount to £500 a rent or sum equal to 2 per centum of the gross amount payable to or charged by the said Company or their assigns for or in respect of the passing and conveying along the said Branch Railways or any part thereof in the same year of such Passengers Cattle and Goods (other than Coals Coke Culm and Cinders) the same to be paid on such 25 th day of March and it being agreed that the company and the associates shall in all cases take a money consideration and no other
Page 13	for the passing and conveyance over and along the said Branch Railways or any part thereof of Passengers and Goods PROVIDED ALWAYS that if any Coals Coke Culm and Cinders being or arising in or from any of the lands edged round with a pink colour or the plan No.2 drawn or these presents shall hereafter be conveyed over or along the said Branch Railways or any part thereof or other the Railways of the Company or any part thereof then all such last mentioned Coals Coke Culm and Cinders which are intended to be hereby described as the Extra Coals Coke Culm and Cinders hereinbefore referred to shall never be included in or form part of the before mentioned quantity of 15,000 tens or of the said quantities in excess thereof but 5/- per ten shall always be payable by the Company to the said Duke his heirs assigns or sequels in estate in respect of such extra coals coke culm and cinders PROVIDED FURTHER that if it shall happen that a wayleave rent less than 5/- per ten would have been payable to the said Duke his heirs
Page 14	assigns or sequels in estate in respect of any part of such Extra Coals Coke Culm and Cinders if the same had been conveyed by and had been Coals Coke Culm and Cinders usually conveyed by the wayleave Railway or tramway in use nearest to the place whence such part of such Extra Coals Coke Culm and Cinders shall arise and passing over or through any of the lands of the said Duke his heirs assigns or sequels in estate other than any Railways of the Company or any part thereof then and in each such case in respect of such identical Extra Coals Coke Culm and Cinders in lieu of 5/- per ten there shall be payable and paid by the said company to the said Duke his heirs assigns or sequels in estate in respect thereof such an amount per ten as shall be equal to the Wayleave rent which he or they would have been entitled to if such identical Extra Coals Coke Culm and Cinders had been actually conveyed by and had been Coals Coke Culm and Cinders usually conveyed by such Wayleave Railways or Tramway in use nearest as
Page 15	aforesaid over or through any of the lands of the said Duke his heirs assigns or sequels in estate other than as aforesaid but in respect of all other Extra Coals Coke Culm and Cinders 5/- per ten shall be and continue to be payable and paid

	<p>as aforesaid PROVIDED ALSO that in case the said rents or sums hereby reserved or made payable or any of them or any part thereof respectively shall be behind or unpaid for forty days next after any of the said days for payment thereof and for 10 days after the same shall during or after such forty days have been legally demanded then and in every such case the said Duke his heirs assigns or sequels in estate may enter upon the said Branch Railway and any other Railway or Railways and any land and buildings for the time being occupied and used by the Company or the assigns and distrain all or any of the coals belonging to the Company or their assigns that shall be found thereon and also the houses, locomotive and other engines, machines, wagons, carriages, ropes, rollers and other matters and things</p>
Page 16	<p>which shall be in or upon the said Branch Railways and other Railway or Railways lands and buildings respectively and whether the same things respectively shall be in actual use or not and such distress so found may take keep lead carry away and sell and dispose of in order to satisfy and pay the rents or sums so in arrear and also the reasonable costs and charges of such distresses and sales rendering the surplus if any on demand unto the Company or their assigns PROVIDED ALSO that if the said rents or sums hereinbefore reserved or made payable or any of them or any part thereof respectively shall be behind or unpaid for three calendar months next after any of the said days for payment thereof and for two calendar months after the same shall during or after such three calendar months have been legally demanded then and in any and every such case and notwithstanding any waiver of any prior right of re-entry under this proviso the said Duke his heirs assigns or sequels in estate if he or they shall think fit so to do with and upon the said Branch Railways and other the premises hereby granted</p>
Page 17	<p>or intended so to be as holder or enjoyed by virtue of these presents or any part thereof in the name of the whole may re-enter and the same henceforth may repossess and enjoy and the rents issues and profits thereof may take and retain for his and their own benefit until thereby as owner he or they shall be fully repaid all such rents or sums so in arrears and all other rents or sums thereby reserved or made payable falling due during such repossession and all costs losses damages and expenses occasioned by such non-payment re-entry repossession or incidental thereto nevertheless he or they on demand after such full repayment permitting the Company or their assigns again to possess and enjoy under these Presents the said Branch Railway and premises and every part thereof PROVIDED ALSO that in case so much of the Railways by "The Blyth and Tyne Railway Act 1867" authorised and are comprised in this lease shall not be made and completed within the time for that purpose limited by Section 35 of the said last mentioned Act or within any extension</p>

Page 18	<p>of such time as Parliament shall by any subsequent Act or Acts grant for the completion of the same and shall be lawful for the said Duke his heirs assigns or sequels in Estate at any time after the expiration of the time limited by any such Act as aforesaid for the completion of the said Branch Railways or any or all of them by notice in writing to the Company or their assigns to determine the Lease hereby made and every clause and matter therein contained so far as relates to so much of the said Branch Railways or any or all of them as shall not have been so made and completed as hereby authorised to be constructed through or over the lands of the said Duke AND the said Company do hereby for themselves and their assigns covenant with the said Duke his heirs assigns and sequels in estate that the Company and their assigns will from time to time during the said term hereby granted pay unto the said Duke his heirs assigns or sequels in estate the said several rents and sums of money reserved or made payable by these Presents and also the said rents and sums of</p>
Page 19	<p>money reserved by any other Wayleave Lease or agreement from the time being subsisting already executed by the said Algernon George Duke of Northumberland or George or Algernon late Dukes of Northumberland or all of them as aforesaid subject to such reduction from time to time (if any) as herebefore mentioned rents on or at the several days or time and in the manner applicable for payment thereof respectively without any deduction or abatement whatsoever on account of any present or future Landlords or Tenants taxes sales assessment charges or payment whatsoever (the land tax and landlord's property or income tax on the said rents or sums only excepted) or on any account whatsoever and will so pay the same according to the true intention and meaning of these Presents AND also will from time to time during the said term hereby granted pay and discharge all present and future Landlords and Tenants taxes rates assessment charges and payment whatsoever for or in respect of the said premises herebefore granted or the said rents or sums or any of them or any part</p>
Page 20	<p>thereof respectively (land tax and landlord's property tax or income tax on the said rents or sums only excepted) AND also will from time to time during the term hereby granted lead and carry by means of the said Branch Railways all such Coals Coke Culm Cinders Cattle and Goods as the said Duke his heirs assigns or sequels in estate or any other party or parties whomsoever shall at any time or time during the said term require to be led or carried away but nevertheless only on payment to the Company or their assigns of such dues and charges for the same Coal Coke Culm Cinders Cattle and Goods as the Company or their assigns shall from time to time be entitled to charge for the same such charge being impartially made so as not to exceed the charge for like articles passing along the lines under the like circumstances and will in all other respects duly maintain keep open for public use and work the said Branch Railways and also will at the end of</p>

	every month during the said term hereby granted make and deliver unto the said Duke his heirs assigns or sequels in estate or his or their
Page 21	Agent or Agents (if thereunder required by him or them) a true and perfect account in writing under the hands of two of the Directors of the Company or their assigns of all such Coal Coke Culm Cinders Passengers Cattle and Goods as shall during each month have been carried and conveyed over and along the said Branch Railways or any part thereof AND FURTHER that the said Duke his heirs assigns and sequels in estate and his or their Agent or Agents from time to time and at all times during the said term hereby granted may have free access and liberty to inspect and at his or their own costs and charges to take copies of the whole or any part of the Viewers or Staithes Accounts Books of Presentment and leading of Coals Coke Culm and Cinders and all other books and accounts relating to the getting and leading of Coals Coke Culm and Cinders and the conveyance of passengers cattle and goods over and along the said Branch Railways or any part thereof AND ALSO that the said Duke his heirs assigns and sequels in estate may from time to time and at any
Page 22	time or times during the said term hereby granted at his or their own costs and charges appoint keep and employ any person or persons as a Clerk or Clerks at any of the Staithes to take an account in writing of all the quantities of Coals Coke Culm and Cinders which shall from time to time be led along the said Branch Railways or any part thereof AND the said Duke so far as relates to the acts and deeds of himself his heirs assigns and sequels in estate doth hereby for himself and them covenant with the Company and their assigns that the Company and their assigns paying the said rents or sums herebefore reserved and observing and performing the several covenants conditions and agreements herein contained and on their part to be observed and performed may peaceably and quietly have hold use occupy possess and enjoy all and every one of the liberties privileges power authorities and presents hereby granted in manner aforesaid according to the true intention and meaning of these presents at all times during the said term hereby granted without the lawful ??? hindrance interruption or disturbance of the said Duke
Page 23	His heirs assigns or sequels in estate or any person or persons lawfully claiming or to claim by from or under him or any one of them PROVIDED ALWAYS that the expression the "assigns" of the Company whenever in these presents contained shall include or extend hereafter to Railway Company into or with which the Company shall at any time hereafter be merged or amalgamated and the expression "The Company" wherever in these presents contained shall in the event of the Company being dissolved and reincorporated by the same or any other name include or extend or relate to the Company constituted by such

	reincorporation. AND the said Duke so far as relates to the acts and defaults of himself his heirs assigns and sequels in estate doth hereby for himself and them covenant with the company and their assigns AND the Company so far as relates to the acts and defaults of themselves and their assigns do hereby for themselves their assigns covenant with the said Duke his heirs assigns and sequels in estate that all the clauses and provisions whatsoever of the Railways Clauses
Page 24	Consolidation Act 1845 and of the Railway Clauses Act 1863 which are incorporated with the Blyth and Tyne Railway Act 1867 shall expect only so far as the same respectively may be repugnant to or inconsistent with any of the terms and provisions of these presents and in those respects subject to those terms and provisions operate and ensue to the benefit of the said Duke and his heirs assigns and sequels in estate and the Company and their assigns and all other persons whomsoever as fully and effectually to all intents and purposes whatsoever as if the Company had taken and acquired the said lands on which the said Branch Railways are to be made it being the true intent and meaning of the said parties hereto that the said Branch Railways shall at all times during the term hereby granted be maintained and kept open for public use and worked with all due regard to the interests of the public according to those clauses and provisions and the provisions of "The Blyth and Tyne Railway Act 1867" and also that if and so often as any dispute or difference
Page 25	shall at any time or times hereafter arise between the said Duke and his heirs assigns or sequels in estate or any of them and the Company or their assigns on account of the breach or the supposed breach of any of the costs contracts or agreements herein contained or otherwise touching or concerning the construction effect incident or consequences of these presents or any matter or thing relating thereto the matter of every such dispute or difference may by the parties interested therein or either of them being reduced into writing and submitted to Arbitration and shall be determined by Arbitration according to the clauses and provisions in that behalf of the Railways Clauses Consolidation Act 1845 and those clauses and provisions shall accordingly be deemed to be part of these presents in witness whereof the said Duke hath hereunder set his land and seal and the said Company have hereunder affixed their Common Seal the day and year first above written

The Duke of Northumberland
to
The Blyth and Tyne Railway Company

**Extract from Grant of Alteration
in Wayleaves dated 29th July 1867**

<p>1</p> <p>Standard of 15000 Tens p.a. at 5f per ten.</p> <p>Standards of 10,000 tens per annum at 2/6 per ten.</p> <p>Rebate of 1/3 per ten for small indentures in the 15000 + 10000 standards. Rebate never to exceed the amount of rent deliver from the 2/6 ten.</p> <p>Rebate to be allowed on the 25 day of March in each year.</p>	<p>That from and after the 25th day of March 1867 the way leave rents by the said? indentures of lease reserved in respect of coals coke culm and cinders shall be altered and from and after that day there shall be paid by the company yearly and every year at the times and in manner by the said sealed indentures respectively provided for payment of the way leave rents coals coke culm And cinders thereby respectively reserved in being there of the way leave rents following that is to say for every ten of coals coke culm And cinders (each ten consisting 17½ Newcastle Chaldrons of 53 cwt each) which shall pass in each year over or along the railways of the company comprised in or referred to in the said sealed indenture or any part of such railways construction over or upon the land of the said Duke up to and not exceeding in the aggregate in each year 15000 tens the rent or sum of 5"/ per ten and for every additional ten of coals coke culm and cinders exceeding 15000 tens which may pass in the same year come over and along the said railways or any part thereof up to and not exceeding 10,000 additional tens the rent or sum of 2/6 per ten. Provided that out of the way leave rent for such additional tens up to 10,000 tens a return shall in each year be made to the company of 1/3 for every ten of small coals indentures in the said 15000 tens as well as in the said additional quantity exceeding 15000 tens up to 10000 tens as aforesaid if the aggregates amount of the rent of 2/6^{sd} per ten in respect of the 10000 additional tens or of any additional quantity less than 10000 tens which shall so pass shall be sufficient to allow of each return being made but if not sufficient in any year to admit of the full return no return shall be made either in that or any other years in respect of that year beyond the said aggregate amount of the said rent of 2/6 per ten . Provided that such return of 1/3 per ten in respect of such small coals shall be considered to be due and payable to the company on the 25th day of March in each year and the half years rent due on the 29th day of Sept in each year shall be payable in full subject to such subsequent to return as aforesaid if any.</p>
<p>2</p> <p>For all coals to in excess of the quantities of the 5"/ + 2/6 standards of 15000 ten + 10000 tens respectively – there shall be paid for.</p>	<p>And for every ten of coals coke culm or cinders which shall pass in the same year over or along the said Railways or any part thereof exceeding the quantity of 25000 tens (being the aggregates of the said 15000 tens and 10000 additional tens) the following way leave rents shall be payable by the company (that is to say) for all longer or round coals and for all coke culm and cinders the sum of 1"/ per ten and for all small coals the sum of 6 per ten.</p>
<p>3</p>	<p>For the purposes of these presents "large of round coals" shall be taken to mean all coals that will not pass through a screen the wires of which are not more than 5/8 of an inch apart and</p>

	<p>"small coals" shall be taken to mean all coal that will pass through each screen.</p>
4	<p>Provided always that if any coal coke or cinders arising in or from any of the <u>lands edged round with a pink colour</u> on the plan hereunto a amend (and herein called "Extra Coals Coke Culm or Cinders") in respect of which identical coals coke culm or cinders there shall not for the time being be payable to the paid Duke his heirs assigns or sequels in estate any other way leave rent for passing over or long any way leave line of railway over or upon this or there lands other than any railway company or part thereof shall hereafter pass over or along any railways of the company or any part thereof comprised in or referred to in the paid seal indentures of lease then all such last mentioned coals coke culm and cinders shall never be indentures in or form or part of the before mentioned quality of 15000 tens or of the said other quantities in excess of the said 15000 tens but 5"/ per ten shall always be payable in respect of all such last mentioned coal coke culm and cinders provided further that if it shall happen that a way leave rent less than 5"/ per tens would have been payable to the said Duke his heirs assigns or sequel in estate in respect of any part of such extra coals coke culm or cinders in case the same had been conveyed by and had been the coals coke culm or cinders then usually conveyed by the way leave railway or tramway in use nearest to the place whence such part of such extra coal coke culm or cinders shall arise and passing over or through any of the lands of the said Duke sequel in estates or assigns other than any railways of the company or any part thereof then and in each such case in respect of such identical extra coal coke culm or cinders in lieu of 5"/ per ten there shall be payable and paid by the said company to the said Duke his heirs assigns or sequel in estate in respect thereof such an amount per ten as shall be equal to the way leave rent which he or they would have been entitled to if such identical extra coals coke culm or cinders had been actually conveyed by and had been coals coke culm or cinders usually conveyed by such way leave railways or tramway in use nearest as aforesaid over or through any of the lands of the lands of the said Duke his heirs assigns or sequels in estates other than as aforesaid but respect of all other extra coals coke culm or cinders 5"/ per ten shall be and continue to be payable and paid as aforesaid</p>

[REDACTED]

From: [REDACTED]
Sent: 15 February 2021 17:09
To: [REDACTED]
Subject: RE: Blyth & Tyne Railway
Attachments: [REDACTED].ms.pdf

[REDACTED]

Thank you. What about agreeing a rate for Woodchip/Biomass? I recall that you were going to look at the income you received from freight companies using the line for this purpose and then apply this to the Estate's 3 mile section – this could possibly give us an annual rent regardless of tonnage (depending on the figure) and you should have regard to the Estates ransom position. You may recall that I have already set out my views on this to [REDACTED], as follows:

"Woodchips/biomass are sent to Lynemouth Power Station (via the Blyth and Tyne Railway line) for the production of electricity similar to the coal that crossed the line (i.e. the line is still being used for principally the same reason – material to produce electricity). We already have a method for calculating the coal wayleave and we could just bring this up to date (given that the current rate was agreed approximately 150 years ago) and apply it to the tonnage of woodchips/biomass that have crossed the line and use this figure as the annual rent (subject to review). As you are aware, we have previously looked at this and I attach a copy of a letter dated 28 July 2010 which puts forward a compelling argument for a significant uplift in the rents associated with coal wayleave. You will note that we have previously suggested the following uplifts:

- a) £10.00 per ten for the first 15,000 tens of coal conveyed in any year (i.e. 21.90 pence per tonne for the first 706,755 tonnes) and £5.00 per ten for the following 10,000 tens of coal (i.e. 10.95 pence per tonne for the following 471,170 tonnes)
- b) any coal in excess of 25,000 tens attracts a wayleave of £2.00 per ten (i.e. 4.38 pence per tonne for any coal in excess of 1,187,450 tonnes).

(N.B. 1 ten equates to 46.375 tons)

In the previous 12 months, the quantity of woodchips/biomass that crossed the line equated to 1,090,440 tonnes (699 train journeys) and based on the above this would equate to an annual rent as follows:

£0.2190 x 706,755 tonnes = £154,779.35
£0.1095 x 383,685 tonnes = £42,013.51
£196,792.86 per annum

This figure also equates to just £281.53 per train journey which doesn't seem unreasonable given that freight companies will be charging approximately £10,000 per journey less whatever they pay Network Rail. You will also note that I have not made any allowance for coal traffic."

I look forward to hearing from you.

Kind regards

[REDACTED]

[REDACTED]
Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP
[REDACTED]





From: [REDACTED]
Sent: 15 February 2021 16:42
To: [REDACTED]
Subject: RE: Blyth & Tyne Railway

OFFICIAL

Afternoon [REDACTED],

Yes, unfortunately I found out that the person who was providing the figures to [REDACTED] has retired and therefore my request was not being dealt with. I have therefore found his replacement and he is looking out the figures for the period May 2019 to date.

I hope that I shall be able to come back to you soon.

Kind Regards,

[REDACTED]



[REDACTED]
[REDACTED]
Network Rail Property | Eastern Region
George Stephenson House, Toft Green, York, YO1 6JT
[REDACTED]

From: [REDACTED]
Sent: 15 February 2021 16:28
To: [REDACTED]
Subject: Blyth & Tyne Railway

Dear [REDACTED]

Do you have any update following our recent telephone call? I have a meeting with the Estate's solicitors on Wednesday and it would be good to hear from you.

Kind regards

[REDACTED]

[REDACTED]
Wardell Armstrong LLP
City Quadrant, 11 Waterloo Square, Newcastle Upon Tyne, NE1 4DP
[REDACTED]



Our ref: JLI/MS/NT02144/0108

Date: 28 July 2010

Your ref:

[REDACTED]
Network Rail
Prudential House
28 – 40 Blossom Street
York
YO24 1GJ

Without Prejudice

Dear [REDACTED]

**Trustees of the Duke of Northumberland 1972 Settlement (Grandchild's Appointment)
Blyth & Tyne Wayleave**

Further to our discussions last summer, I note that I have not confirmed my client's view on your offer of a capital sum. The Estate has considered your proposal and I confirm that they are not interested in progressing matters on this basis. Furthermore, they remain of the view that the wayleave rents payable under the Agreement do not reflect market value and I am instructed to request a review of the payments for coal transported along the railway line.

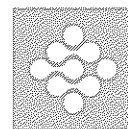
I understand from your email dated 30 April 2009 that you consider the current arrangement is equitable because you believe that a premium would have been paid at the time of the original Agreement (i.e. 1853). I have reviewed our records and can find no reference to a premium being paid, but if you have evidence to the contrary, I would be grateful for details. Notwithstanding the position in 1853, my clients feel that wayleave rents set 140 years ago (as set out in the Grant of Alteration dated 1867) cannot be equitable in a modern context.

The current wayleave rents may be summarised as follows:

- a) 25 pence per ten for the first 15,000 tens of coal conveyed in any year (N.B. 1 ten equates to 46.375 tons) and 12.5 pence per ten for the following 10,000 tens of coal, both rates being subject to a rebate of 6.25 pence per ten for any small coal; and
- b) any coal in excess of 25,000 tens attracts a wayleave of 5 pence per ten for round coal and 2.5 pence per ten for small coal.

The rents set out under a) above equate to approximately 0.005 pence per ton and 0.0027 pence per ton respectively. The rents set out under b) above equate to approximately 0.0001





pence per ton and 0.0005 pence per ton respectively. In addition to the above, we invoice Network Rail for a fixed "on account" payment of £100 per annum. This payment has been reduced over the years to take account of the falling level of activity along the line and was last reduced in May 2002 (i.e. from £500 to the current level).

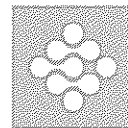
My firm has a long history of managing coal leases on behalf of mineral owners and based on information held at this office, I understand that coal royalties between 1860 to 1890 were in the region of 5d per ton, which today converts to approximately 2.07 pence per ton. The wayleave rents of 0.005 pence per ton and 0.0027 pence per ton therefore equate to approximately 24% and 13% of the passing coal royalty. As you may be aware, coal is now owned by the state and managed by the Coal Authority. Nevertheless, landowners receive payments for coal which are designed to reflect the temporary disturbance of the land/loss of land use. Payments are usually linked to the quantity of coal extracted from beneath the land and current tonnage/wayleave payments are in the region of £2.00 per tonne (i.e. £2.03 per ton). Assuming the same principles above, this would equate to revised wayleave rents of 48 pence per ton and 26 pence per ton (i.e. £22.26 per ten and £12.05 per ten respectively).

An alternative basis of review would be to consider the relationship between coal prices and wayleave rents. The coal price in 1869 was approximately 9 shillings per ton, which today converts to approximately 45 pence per ton. The wayleave rents of 0.005 pence per ton and 0.0027 pence per ton therefore equate to approximately 1.1% and 0.6% of the selling price. The current selling price of coal is approximately £44 per tonne and if the above principle is applied, this would equate to revised wayleave rents of 48 pence per ton and 26 pence per ton (i.e. £22.26 per ten and £12.05 per ten respectively).

The above market evidence puts forward a compelling argument for a significant uplift in the rents. I appreciate that an uplift of this magnitude may be considered too extreme by your Company but my clients feel that they are not being compensated for the ongoing use of the wayleave. By way of compromise, I therefore suggest the following uplifts:

- a) £10.00 per ten for the first 15,000 tens of coal conveyed in any year (N.B. 1 ten equates to 46.375 tons) and £5.00 per ten for the following 10,000 tens of coal, both rates being subject to a rebate of £2.50 per ten for any small coal; and
- b) any coal in excess of 25,000 tens attracts a wayleave of £2.00 per ten for round coal and £1.00 pence per ten for small coal.

I believe the above proposal is reasonable, especially when you consider the Estate has, to date, waived their right under the Agreement to charge a wayleave for other traffic equating to 2% of the fares charges for passengers, cattle and goods. With regard to passenger traffic, it should be noted that a branch of the Blyth and Tyne line forms part of the Tyne and Wear Metro System and is sub-leased to Nexus (formerly the Tyne and Wear Passenger Transport Executive). For your information, I enclose a copy of a letter from



British Rail Property Board dated 5 March 1975 confirming that part of the Blyth and Tyne Railway forms part of the North Tyneside Circular (i.e. the metro system) where the board hold part of the railway formation from the Duke of Northumberland. I also enclose a copy of typed transcript of a hand written deed held by my firm which sets out the 2% charge (see page 12).

Whilst writing, I would be grateful to receive a statement setting out the quantities of coal and coke led over the above during the year ending 24 March 2010. Following receipt of these figures, I will issue a Surface Wayleave Rent Demand. In the past I have obtained these figures directly from the various freight companies who use the line, however, at the last rent day, I encountered problems obtaining such figures from these companies, in particular Freightliner. Given that your Company are the successor to The Blyth and Tyne Railway Company, it is your Company's responsibility under the terms of the Agreement to provide the relevant information and I would appreciate your co-operation in this matter.

I look forward to hearing from you.

Yours sincerely
for Wardell Armstrong LLP



Encl. Letter from British Rail Property Board dated 5 March 1975
Typed transcript of hand written deed

cc.  Network Rail

Clavering Place
Newcastle-upon-Tyne 1
NE1 3NG
Newcastle (STD. 0632) 611234 Ext.

2792

A S E Bradfield FRICS
Estate Surveyor & Manager
F. Beaney, F.R.I.C.S.
Estate Surveyor (Newcastle)

J M Clark & Partners
Chartered Surveyor
Archbold House
Archbold Terrace
Newcastle upon Tyne
NE2 1DR

RECEIVED	
- 6 MAR 1975	
DEALT WITH	INITIALS

46.375 tons
= 1 ton

1st 15,000 tons 25p per ton
10,000 tons 12.5p
Rebate on small 6.25p per ton

Date 5 March 1975

y/r

o/r

S/TB/VC

Dear Sirs

Simplex Circular & Letter 5p per ton
" Small 2.5p

RE : TYNE AND WEAR METRO SYSTEM

I refer to recent telephone conversation between Mr Gibbons and my representative Mr Bowes on the above subject. As you will be aware the Tyneside Metropolitan Railway Act, 1973, empowers the Tyne and Wear Passenger Transport Executive to construct a rapid transit system the main part of which will be routed over existing British Railways Board tracks.

The section of railway I wish to refer to in this letter is that part of the former Blyth and Tyne railway system now described as the North Tyneside Circular. In particular I am interested in the section between Benton and Tynemouth (via Monkseaton) where this Board hold parts of the railway formation from the Duke of Northumberland under various wayleave leases in respect of which His Grace is paid on the basis of Tentale rents.

In order to comply with the statutory powers conferred by the Metro Railway Act, 1973, this Board is considering leasing to the P T E for a term of years the existing railways involved. This would, of course, include the lands held by the Board on lease of wayleave terms from the Ducal Estate which arrangements you will appreciate, still have a considerable time to run.

It is assumed that His Grace is agreeable in principle to the proposed rapid transit system over Board controlled railways since I have not been advised of any objections to the Metro scheme when this was being progressed at Bill stage through the Parliamentary procedures. However, it would seem to me that I should now approach you as Agents for the Ducal Estate on the following two aspects:-

- (i) Permission for this Board to sub-lease to the P T E the section of wayleave held railway formation and
- (ii) the position relating to the Tentale rents since the P T E will not, of course, be transporting any coal over the lines.

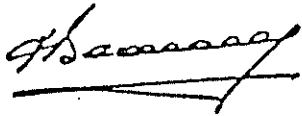
Obviously there will have to be meetings between your good selves and the Board in order to progress the matter but in order to get the case off the ground could I please now look to you for confirmation on item (i) above. With regard to item (ii), I am endeavouring to carry out certain research into the present day method of calculating the Tentale rents and to this end my representative is to meet Messrs William Armstrong and Sons who look after this aspect for His Grace. Mr Gibbons will recall that this point was referred to in his telephone conversation with Mr Bowes.

RECEIVED 2 DEC 1975

5 March 1975

I think that I have covered in this letter the main points to be resolved by way of preliminaries and I would welcome any comments you may wish to make at this stage.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'J M Clark', with a horizontal line drawn underneath it.

Typed Transcript of hand-written deed held by WA entitled:

**His Grace The Duke of Northumberland
and
The Blyth and Tyne Railway Company**

**Copy Draft Lease for 1000 years of lands required for Railway authorised by
"The Blyth and Tyne Railway Act 1867"**

"The Company's Seal was attached to this Lease on the 4th January 1872"

Page 1	This indenture made the 4 th day of May in the year of our Lord 1872 Between The Most Noble Algernon George Duke of Northumberland of the one part and The Blyth and Tyne Railway Company (hereinafter called the company) of the other part Witnesseth that in presence of a contract duly entered into between the said Duke and The Company by an indenture dated the 31 st day of July 1867 and in consideration of the rents herein reserved and of the costs conditions and agreements herein contained and on the part of the said Blyth and Tyne Railway Company and their assigns to be observed and performed. The said Duke of Northumberland by these present as well by virtue of any power enabling him in this behalf as in respect of his estate and interest doth grant unto the Company and their assigns (subject nevertheless to the Company compensating all tenants and paying for all buildings which may be required to be taken or injuriously affected by The Company) full wayleave or right of way
Page 2	and liberty power and authority to for the Company and their assigns to make and construct so much and such parts of the Railway and works as are to pass through the lands and grounds of the said Duke and as are comprised in the following description in the Blyth and Tyne Railway Act 1867 that is to say <u>North Shields Branch</u> - a Railway 1 mile 2 furlongs and 120 yards or thereabouts in length commencing in the Township of Tynemouth in the parish of Tynemouth by a junction with the Tynemouth Extension of the Blyth and Tyne Railway and terminating in North Shields in the County of Northumberland at or near the North side of the street called Tyne Street <u>Walbottle Branch</u> - a Railway 4 miles 6 furlongs 143 yards or thereabouts in length commencing in the Township of South Gosforth in the Chapelry or Parish of Gosforth in the Parish of St. Nicholas in the County of Northumberland by a junction with the Branch of the Blyth and Tyne Railway leading from Hotspur Place to
Page 3	Newcastle Upon Tyne and terminating at a point at or near the Steam or Riverlet called the Ouseburn in the township of Butterlaw and Parish of Newburn in the said County of Northumberland <u>Tynemouth Dock Branch</u> - a railway 1 mile 40 yards in length commencing in the Township of Tynemouth in the Parish of Tynemouth in the County of Northumberland by a junction with the Tynemouth

	Extension of the Blyth and Tyne Railway and terminating in an intended Dock authorised to be constructed by the Tyne Improvement Committee (and which said parts of the said Railways and works as are to pass through the lands and grounds of the said Duke are herein called and intended by the expression "the said Branch Railways") upon the lands of the said Duke in that behalf described upon the plans and in the Books of Reference referred to in the said Act being the "Blyth and Tyne Railway Act 1867" but so that the Company or their
Page 4	assigns shall not in constructing the said Branch Railways deviate from the line and situation laid down in a Red colour on the Plan No.1 drawn on these Presents without the consent of the said Duke his heirs and assigns or sequels in estate but with such consent the said Company or their assigns may in constructing the said Branch Railways deviate from the line and situation so laid down on the said last mentioned plan provided that every deviation shall be made within the limits of deviation laid down upon the Plans first hereinbefore mentioned and the Company or their associates shall not be entitled without such consent to occupy more in width of such land or any part of the said Lands than the widths respectively shown by a Red Colour on the said Plan No.1 drawn on these presents and to enter upon and use from time to time to amend repair the said Branch Railways in the usual manner in through over and along the said Lands and Grounds of
Page 5	the said Duke upon which the said Branch Railways shall be so constructed for the leading conveying and carrying with Engines Wagons W??? Trucks and other Carriages over and along the said Branch Railways of Coal Coke Culm Cinders Cattle and other Goods into any place or places whatsoever and also for the leading conveying and carrying of carriages and passengers (except railways reserved forth and out of this present demise as part of the compensation for the way leave rights powers and privileges hereby demised or intended so to be full and free liberty licence and power for the said Duke his heirs and assigns and sequels in estate and his and their Agents Workmen and Servants from time to time and at any time or times hereafter as often as he or they may think proper to construct use fix and repair other Railways and other ways and to make and lay the same respectively on any part or parts thereof over under or across the said Branch Railways and to use the same respectively
Page 6	said always that the Wagons and Traffic of the Company and their assigns on the said Branch Railways or any part thereof be not thereby injuriously hindered and said always that the interest of the Public be not thereby injuriously affected) To have and to hold to said wayleave liberties privileges and authorities and all singular other the premises hereby granted or expressed or intended so to be with the Company and their assigns for the term of 1000 years to be so computed from the twenty-fifth day of March 1866 and thenceforth next ensuing and fully to be

	complete and ended Yielding and Paying yearly and every year during the said term (each year to be considered as commencing from the 25 th day of March) as follows that is to say for all Coals Cokes Culm and Cinders hereinafter described or referred to as "The Extra Coal Coke Culm and Cinders" which shall during each year of the said term hereby granted pass over or along the said Branch Railways or any part thereof and in
Page 7	respect of which identical Extra Coals Coke Culm and Cinders there shall not for the time being be payable to the said Duke his heirs assigns or sequels in estate any other wayleave rent for passing over or along any wayleave line of Railway over or upon his or their lands other than any Railways of the Company or any part thereof the rent or sum of 5/- per ten (each ten being calculated for the purpose of these presents as consisting of 17½ Newcastle Cauldrons of 53 cwt each) and for all other Coals Coke Culm and Cinders which shall during each year of the said term of hereby granted pass over or along the said Branch Railways or any part thereof and in respect of which identical other coals coke culm or cinders there shall not for the time being be payable to the said Duke his heirs assigns or sequels in estate or any of them for passing over or along the said Blyth and Tyne Railway or any part thereof or the said Branch Railways or any part thereof any Wayleave rent or other sum reserved by any other Wayleave Lease or Agreement already made by
Page 8	the said Algernon George Duke of Northumberland or his predecessor George and Algernon late Dukes of Northumberland or either of them and for the time being subsisting the following wayleave rents or sums that is to say for every ten (calculated as aforesaid) of such other Coals Coke Culm and Cinders which shall so pass in each year up to and not exceeding in the aggregate in each year 15,000 tens of such other Coals Coke Culm and Cinders the rent or sum of 57 ten and if in the same year more than 15,000 tens of such other coals coke culm and cinders shall so pass then for every such additional ten which shall so pass in the same year in excess of such 15,000 tens up to and not exceeding 10,000 such tens in excess as aforesaid the rent or sum of 2/6 per ten and if in the same year more than 10,000 such additional tens in excess as aforesaid shall so pass then for every such ten which shall so pass in the same year in excess of such 10,000 tens the rents or sums following that is to say for every such ten of large or round Coals and of Coke Culm and Cinders
Page 9	the rent or the sum of 1/- and for every such ten of small Coals the rent or sum of 6d and all the rents or sums reserved by these presents shall be payable and paid half yearly on the 29 th day of Sept and the 25 th day of March in each year and the 1 st half yearly payment in each year shall be made on the 29 th day of September for the number of tens as aforesaid which shall have so passed up to

	that day and the payment of the balance of such rents or sums due in prospect of the whole of each year shall be made on the 25 th day of March and in ascertaining such balance the proviso next hereinafter contained shall apply. Provided always and it is hereby agreed and declared between and by the parties hereto that in respect of each year in which more than 15,000 tens of such other Coals Coke Culm and Cinders shall so pass it shall be ascertained how many tens of small Coals were comprised in the said 15,000 tens which shall so pass in that year and how many tens of small Coals were comprised in the said tens in
Page 10	excess of 15,000 tens up to and not exceeding 10,000 tens so in excess and a return of 1/3 for or in respect of every ten of small Coals so to be ascertained shall be made or allowed to the said Company out the rents or sums payable in respect of that year for the said tens in excess of the said 15,000 tens up to and not exceeding 10,000 tens so in excess but such return shall not be made or allowed out of the rents or sums payable for the said 15,000 tens nor out of the rents or sums payable for any such tens beyond 10,000 tens so in excess it being hereby expressly agreed and declared that if the rent or sums payable in that year for the said tens in excess of the said 15,000 tens up to and not exceeding 10,000 tens so in excess shall not in the aggregate be of sufficient amount to provide such return in full than what would otherwise have been the aggregate amount of such return shall be reduced to and shall be deemed to be satisfied by the amount of the rent or sums payable in that year for the
Page 11	said tens in excess of the said 15,000 tens up to and not exceeding 10,000 tens so in excess and if in any year there shall not be any such tens in excess of such 15,000 tens then as such return as aforesaid shall in that or any other year be made for or in respect of that year and for the purpose of these Presents "large or round Coals" shall be taken to mean all coals that will not pass through a screen the wires of which are not more than 5/8ths of an inch apart and "small Coals" shall be taken to mean all Coals that will pass through such screen AND ALSO YIELDING AND PAYING yearly and every year during the said term in respect of Passengers Cattle and Goods (other than Coals Coke Culm and Cinders) which shall during the said term hereby granted pass over and along the said Branch Railways or any part thereof as next hereinafter specified (that is to say) for every year ending with the 25 th day of March in which year the rents or sums payable by the Company or their assigns as aforesaid in respect of Coals
Page 12	Coke Culm and Cinders passing over and along the said Blyth and Tyne Railway or any part thereof and the said Branch Railways or any part thereof, both or either of them from the Cowpen Colliery and Collieries or Royalties situate to the Northward of the River Blyth amount to £500 or upwards the rent of 1/- the same to be paid on the 25 th day of March in each year and for every year ending with

	the 25 th day of March in which year the rents or sums payable by the Company or their assigns as aforesaid in respect of such last mentioned Coals Coke Culm and Cinders shall not amount to £500 a rent or sum equal to 2 per centum of the gross amount payable to or charged by the said Company or their assigns for or in respect of the passing and conveying along the said Branch Railways or any part thereof in the same year of such Passengers Cattle and Goods (other than Coals Coke Culm and Cinders) the same to be paid on such 25 th day of March and it being agreed that the company and the associates shall in all cases take a money consideration and no other
Page 13	for the passing and conveyance over and along the said Branch Railways or any part thereof of Passengers and Goods PROVIDED ALWAYS that if any Coals Coke Culm and Cinders being or arising in or from any of the lands edged round with a pink colour or the plan No.2 drawn or these presents shall hereafter be conveyed over or along the said Branch Railways or any part thereof or other the Railways of the Company or any part thereof then all such last mentioned Coals Coke Culm and Cinders which are intended to be hereby described as the Extra Coals Coke Culm and Cinders hereinbefore referred to shall never be included in or form part of the before mentioned quantity of 15,000 tens or of the said quantities in excess thereof but 5/- per ten shall always be payable by the Company to the said Duke his heirs assigns or sequels in estate in respect of such extra coals coke culm and cinders PROVIDED FURTHER that if it shall happen that a wayleave rent less than 5/- per ten would have been payable to the said Duke his heirs
Page 14	assigns or sequels in estate in respect of any part of such Extra Coals Coke Culm and Cinders if the same had been conveyed by and had been Coals Coke Culm and Cinders usually conveyed by the wayleave Railway or tramway in use nearest to the place whence such part of such Extra Coals Coke Culm and Cinders shall arise and passing over or through any of the lands of the said Duke his heirs assigns or sequels in estate other than any Railways of the Company or any part thereof then and in each such case in respect of such identical Extra Coals Coke Culm and Cinders in lieu of 5/- per ten there shall be payable and paid by the said company to the said Duke his heirs assigns or sequels in estate in respect thereof such an amount per ten as shall be equal to the Wayleave rent which he or they would have been entitled to if such identical Extra Coals Coke Culm and Cinders had been actually conveyed by and had been Coals Coke Culm and Cinders usually conveyed by such Wayleave Railways or Tramway in use nearest as
Page 15	aforesaid over or through any of the lands of the said Duke his heirs assigns or sequels in estate other than as aforesaid but in respect of all other Extra Coals Coke Culm and Cinders 5/- per ten shall be and continue to be payable and paid

	<p>as aforesaid PROVIDED ALSO that in case the said rents or sums hereby reserved or made payable or any of them or any part thereof respectively shall be behind or unpaid for forty days next after any of the said days for payment thereof and for 10 days after the same shall during or after such forty days have been legally demanded then and in every such case the said Duke his heirs assigns or sequels in estate may enter upon the said Branch Railway and any other Railway or Railways and any land and buildings for the time being occupied and used by the Company or the assigns and distrain all or any of the coals belonging to the Company or their assigns that shall be found thereon and also the houses, locomotive and other engines, machines, wagons, carriages, ropes, rollers and other matters and things</p>
Page 16	<p>which shall be in or upon the said Branch Railways and other Railway or Railways lands and buildings respectively and whether the same things respectively shall be in actual use or not and such distress so found may take keep lead carry away and sell and dispose of in order to satisfy and pay the rents or sums so in arrear and also the reasonable costs and charges of such distresses and sales rendering the surplus if any on demand unto the Company or their assigns PROVIDED ALSO that if the said rents or sums hereinbefore reserved or made payable or any of them or any part thereof respectively shall be behind or unpaid for three calendar months next after any of the said days for payment thereof and for two calendar months after the same shall during or after such three calendar months have been legally demanded then and in any and every such case and notwithstanding any waiver of any prior right of re-entry under this proviso the said Duke his heirs assigns or sequels in estate if he or they shall think fit so to do with and upon the said Branch Railways and other the premises hereby granted</p>
Page 17	<p>or intended so to be as holder or enjoyed by virtue of these presents or any part thereof in the name of the whole may re-enter and the same henceforth may repossess and enjoy and the rents issues and profits thereof may take and retain for his and their own benefit until thereby as owner he or they shall be fully repaid all such rents or sums so in arrears and all other rents or sums thereby reserved or made payable falling due during such repossession and all costs losses damages and expenses occasioned by such non-payment re-entry repossession or incidental thereto nevertheless he or they on demand after such full repayment permitting the Company or their assigns again to possess and enjoy under these Presents the said Branch Railway and premises and every part thereof PROVIDED ALSO that in case so much of the Railways by "The Blyth and Tyne Railway Act 1867" authorised and are comprised in this lease shall not be made and completed within the time for that purpose limited by Section 35 of the said last mentioned Act or within any extension</p>

Page 18	<p>of such time as Parliament shall by any subsequent Act or Acts grant for the completion of the same and shall be lawful for the said Duke his heirs assigns or sequels in Estate at any time after the expiration of the time limited by any such Act as aforesaid for the completion of the said Branch Railways or any or all of them by notice in writing to the Company or their assigns to determine the Lease hereby made and every clause and matter therein contained so far as relates to so much of the said Branch Railways or any or all of them as shall not have been so made and completed as hereby authorised to be constructed through or over the lands of the said Duke AND the said Company do hereby for themselves and their assigns covenant with the said Duke his heirs assigns and sequels in estate that the Company and their assigns will from time to time during the said term hereby granted pay unto the said Duke his heirs assigns or sequels in estate the said several rents and sums of money reserved or made payable by these Presents and also the said rents and sums of</p>
Page 19	<p>money reserved by any other Wayleave Lease or agreement from the time being subsisting already executed by the said Algernon George Duke of Northumberland or George or Algernon late Dukes of Northumberland or all of them as aforesaid subject to such reduction from time to time (if any) as herebefore mentioned rents on or at the several days or time and in the manner applicable for payment thereof respectively without any deduction or abatement whatsoever on account of any present or future Landlords or Tenants taxes sales assessment charges or payment whatsoever (the land tax and landlord's property or income tax on the said rents or sums only excepted) or on any account whatsoever and will so pay the same according to the true intention and meaning of these Presents AND also will from time to time during the said term hereby granted pay and discharge all present and future Landlords and Tenants taxes rates assessment charges and payment whatsoever for or in respect of the said premises herebefore granted or the said rents or sums or any of them or any part</p>
Page 20	<p>thereof respectively (land tax and landlord's property tax or income tax on the said rents or sums only excepted) AND also will from time to time during the term hereby granted lead and carry by means of the said Branch Railways all such Coals Coke Culm Cinders Cattle and Goods as the said Duke his heirs assigns or sequels in estate or any other party or parties whomsoever shall at any time or time during the said term require to be led or carried away but nevertheless only on payment to the Company or their assigns of such dues and charges for the same Coal Coke Culm Cinders Cattle and Goods as the Company or their assigns shall from time to time be entitled to charge for the same such charge being impartially made so as not to exceed the charge for like articles passing along the lines under the like circumstances and will in all other respects duly maintain keep open for public use and work the said Branch Railways and also will at the end of</p>

	every month during the said term hereby granted make and deliver unto the said Duke his heirs assigns or sequels in estate or his or their
Page 21	Agent or Agents (if thereunder required by him or them) a true and perfect account in writing under the hands of two of the Directors of the Company or their assigns of all such Coal Coke Culm Cinders Passengers Cattle and Goods as shall during each month have been carried and conveyed over and along the said Branch Railways or any part thereof AND FURTHER that the said Duke his heirs assigns and sequels in estate and his or their Agent or Agents from time to time and at all times during the said term hereby granted may have free access and liberty to inspect and at his or their own costs and charges to take copies of the whole or any part of the Viewers or Staithes Accounts Books of Presentment and leading of Coals Coke Culm and Cinders and all other books and accounts relating to the getting and leading of Coals Coke Culm and Cinders and the conveyance of passengers cattle and goods over and along the said Branch Railways or any part thereof AND ALSO that the said Duke his heirs assigns and sequels in estate may from time to time and at any
Page 22	time or times during the said term hereby granted at his or their own costs and charges appoint keep and employ any person or persons as a Clerk or Clerks at any of the Staithes to take an account in writing of all the quantities of Coals Coke Culm and Cinders which shall from time to time be led along the said Branch Railways or any part thereof AND the said Duke so far as relates to the acts and deeds of himself his heirs assigns and sequels in estate doth hereby for himself and them covenant with the Company and their assigns that the Company and their assigns paying the said rents or sums herebefore reserved and observing and performing the several covenants conditions and agreements herein contained and on their part to be observed and performed may peaceably and quietly have hold use occupy possess and enjoy all and every one of the liberties privileges power authorities and presents hereby granted in manner aforesaid according to the true intention and meaning of these presents at all times during the said term hereby granted without the lawful ??? hindrance interruption or disturbance of the said Duke
Page 23	His heirs assigns or sequels in estate or any person or persons lawfully claiming or to claim by from or under him or any one of them PROVIDED ALWAYS that the expression the "assigns" of the Company whenever in these presents contained shall include or extend hereafter to Railway Company into or with which the Company shall at any time hereafter be merged or amalgamated and the expression "The Company" wherever in these presents contained shall in the event of the Company being dissolved and reincorporated by the same or any other name include or extend or relate to the Company constituted by such

	reincorporation. AND the said Duke so far as relates to the acts and defaults of himself his heirs assigns and sequels in estate doth hereby for himself and them covenant with the company and their assigns AND the Company so far as relates to the acts and defaults of themselves and their assigns do hereby for themselves their assigns covenant with the said Duke his heirs assigns and sequels in estate that all the clauses and provisions whatsoever of the Railways Clauses
Page 24	Consolidation Act 1845 and of the Railway Clauses Act 1863 which are incorporated with the Blyth and Tyne Railway Act 1867 shall expect only so far as the same respectively may be repugnant to or inconsistent with any of the terms and provisions of these presents and in those respects subject to those terms and provisions operate and ensue to the benefit of the said Duke and his heirs assigns and sequels in estate and the Company and their assigns and all other persons whomsoever as fully and effectually to all intents and purposes whatsoever as if the Company had taken and acquired the said lands on which the said Branch Railways are to be made it being the true intent and meaning of the said parties hereto that the said Branch Railways shall at all times during the term hereby granted be maintained and kept open for public use and worked with all due regard to the interests of the public according to those clauses and provisions and the provisions of "The Blyth and Tyne Railway Act 1867" and also that if and so often as any dispute or difference
Page 25	shall at any time or times hereafter arise between the said Duke and his heirs assigns or sequels in estate or any of them and the Company or their assigns on account of the breach or the supposed breach of any of the costs contracts or agreements herein contained or otherwise touching or concerning the construction effect incident or consequences of these presents or any matter or thing relating thereto the matter of every such dispute or difference may by the parties interested therein or either of them being reduced into writing and submitted to Arbitration and shall be determined by Arbitration according to the clauses and provisions in that behalf of the Railways Clauses Consolidation Act 1845 and those clauses and provisions shall accordingly be deemed to be part of these presents in witness whereof the said Duke hath hereunder set his land and seal and the said Company have hereunder affixed their Common Seal the day and year first above written

The Duke of Northumberland
to
The Blyth and Tyne Railway Company

**Extract from Grant of Alteration
in Wayleaves dated 29th July 1867**

<p>1</p> <p>Standard of 15000 Tens p.a. at 5f per ten.</p> <p>Standards of 10,000 tens per annum at 2/6 per ten.</p> <p>Rebate of 1/3 per ten for small indentures in the 15000 + 10000 standards. Rebate never to exceed the amount of rent deliver from the 2/6 ten.</p> <p>Rebate to be allowed on the 25 day of March in each year.</p>	<p>That from and after the 25th day of March 1867 the way leave rents by the said? indentures of lease reserved in respect of coals coke culm and cinders shall be altered and from and after that day there shall be paid by the company yearly and every year at the times and in manner by the said sealed indentures respectively provided for payment of the way leave rents coals coke culm And cinders thereby respectively reserved in being there of the way leave rents following that is to say for every ten of coals coke culm And cinders (each ten consisting 17½ Newcastle Chaldrons of 53 cwt each) which shall pass in each year over or along the railways of the company comprised in or referred to in the said sealed indenture or any part of such railways construction over or upon the land of the said Duke up to and not exceeding in the aggregate in each year 15000 tens the rent or sum of 5"/ per ten and for every additional ten of coals coke culm and cinders exceeding 15000 tens which may pass in the same year come over and along the said railways or any part thereof up to and not exceeding 10,000 additional tens the rent or sum of 2/6 per ten. Provided that out of the way leave rent for such additional tens up to 10,000 tens a return shall in each year be made to the company of 1/3 for every ten of small coals indentures in the said 15000 tens as well as in the said additional quantity exceeding 15000 tens up to 10000 tens as aforesaid if the aggregates amount of the rent of 2/6^{sd} per ten in respect of the 10000 additional tens or of any additional quantity less than 10000 tens which shall so pass shall be sufficient to allow of each return being made but if not sufficient in any year to admit of the full return no return shall be made either in that or any other years in respect of that year beyond the said aggregate amount of the said rent of 2/6 per ten . Provided that such return of 1/3 per ten in respect of such small coals shall be considered to be due and payable to the company on the 25th day of March in each year and the half years rent due on the 29th day of Sept in each year shall be payable in full subject to such subsequent to return as aforesaid if any.</p>
<p>2</p> <p>For all coals to in excess of the quantities of the 5"/ + 2/6 standards of 15000 ten + 10000 tens respectively – there shall be paid for.</p>	<p>And for every ten of coals coke culm or cinders which shall pass in the same year over or along the said Railways or any part thereof exceeding the quantity of 25000 tens (being the aggregates of the said 15000 tens and 10000 additional tens) the following way leave rents shall be payable by the company (that is to say) for all longer or round coals and for all coke culm and cinders the sum of 1"/ per ten and for all small coals the sum of 6 per ten.</p>
<p>3</p>	<p>For the purposes of these presents "large of round coals" shall be taken to mean all coals that will not pass through a screen the wires of which are not more than 5/8 of an inch apart and</p>

	<p>"small coals" shall be taken to mean all coal that will pass through each screen.</p>
4	<p>Provided always that if any coal coke or cinders arising in or from any of the <u>lands edged round with a pink colour</u> on the plan hereunto a amend (and herein called "Extra Coals Coke Culm or Cinders") in respect of which identical coals coke culm or cinders there shall not for the time being be payable to the paid Duke his heirs assigns or sequels in estate any other way leave rent for passing over or long any way leave line of railway over or upon this or there lands other than any railway company or part thereof shall hereafter pass over or along any railways of the company or any part thereof comprised in or referred to in the paid seal indentures of lease then all such last mentioned coals coke culm and cinders shall never be indentures in or form or part of the before mentioned quality of 15000 tens or of the said other quantities in excess of the said 15000 tens but 5"/ per ten shall always be payable in respect of all such last mentioned coal coke culm and cinders provided further that if it shall happen that a way leave rent less than 5"/ per tens would have been payable to the said Duke his heirs assigns or sequel in estate in respect of any part of such extra coals coke culm or cinders in case the same had been conveyed by and had been the coals coke culm or cinders then usually conveyed by the way leave railway or tramway in use nearest to the place whence such part of such extra coal coke culm or cinders shall arise and passing over or through any of the lands of the said Duke sequel in estates or assigns other than any railways of the company or any part thereof then and in each such case in respect of such identical extra coal coke culm or cinders in lieu of 5"/ per ten there shall be payable and paid by the said company to the said Duke his heirs assigns or sequel in estate in respect thereof such an amount per ten as shall be equal to the way leave rent which he or they would have been entitled to if such identical extra coals coke culm or cinders had been actually conveyed by and had been coals coke culm or cinders usually conveyed by such way leave railways or tramway in use nearest as aforesaid over or through any of the lands of the lands of the said Duke his heirs assigns or sequels in estates other than as aforesaid but respect of all other extra coals coke culm or cinders 5"/ per ten shall be and continue to be payable and paid as aforesaid</p>

REPORT FOR RENTS PAYABLE

Report Prepared by:	██████████
Purpose of Report:	Consent to process and Rent Review
Date of assessment:	26/11/18
Property Address:	Freight route over land running from Seghill and Percy Main and Backworth and Palmersville in South Northumberland.
Co-ordinates:	429939, 573434
ELR:	EJM 8 0587
Property Description:	Blythe and Tyne Easement
Horizon reference number:	BYB02200
Lease Payable reference number	00005545
Existing Landowner:	Duke of Northumberland
Proposed Rent:	£6,243.95 with effect from 29 th September 2011
Commencement date:	Circa 1853 and 1867
Term:	Unknown
Plan no. or name:	As attached

Details of Agreement

In the 19th Century, Network Rail acquired 3 agreements from the Duke of Northumberland to install railway track and operate freight movement on his land.

Original copies of these agreements have not been successfully sourced. Picking up on learned knowledge from Surveyors and Route team members the Duke of Northumberland is entitled to royalties linked to the amount of cargo run across the line. These royalties have not been paid since 2011. Bruton Knowles (BK) were instructed to act on behalf of NR to undertake a review and calculate our Arrears.

BK have undertaken a review of the agreements and produced a report (see appendix A). This document outlines the position of the agreements and the calculation of arrears. For ease the sections highlighted Orange relate specifically to how this was calculated, but to summarise the calculations used use the number of trains ran on the land (See Green Highlight Appendix B) multiplied by the maximum loading each train could carry, this is due to insufficient information details the mass of cargo each train carried.

As part of their discussions BK have agreed a negotiated flat rate to be paid each year which was calculated using the average of the Royalties due between 2011 and 2016 equating to £6,243.95 per annum.

Royalties to the Landowner have not been paid since 2011 aside from a holding charge of £100 per annum. This means that 8 years of royalties are due amounting to £49,079.60.

The asset now sits in the Route Cost Centre 118600 however before financial year 2016/2017 this asset sat with Property Services in CC 753120. As such Property Services will be contributing towards the arrear royalties for the period pre-transfer. This apportionment has been calculated as per the below:

From	To	Total Amount	PS Amount	Route Amount
29/09/2017	28/09/2019	12,487.90		12,487.90
29/09/2016	28/09/2017	6,243.95	446.00	5,797.95
29/09/2011	28/09/2016	31,219.73	31,219.73	
Total		49,951.58	31,665.73	18,285.85

Royalties Calculation

The calculation used to determine the Royalty Value can be seen in Appendix (highlighted Orange for ease). Given lack of available information, certain assumptions have had to be made in relation to the tonnage of cargo which in simplified terms amounts to the maximum amount of tonnage that could have been carried by a single train.

Location and Description

The line in question measures some 4.2km and is situated to the North of Newcastle running between the points marked by the Blue 'X' on the below plan.



Factors affecting Value

Royalties are directly linked to the number of freight movements undertaken on the line

Royalties are linked to what is transported on the line. Freight movements are calculated based on the mass of cargo transported. Should the line ever be used for passenger transport royalties would also be due. The reports available currently contradicted one another but indicate this could be somewhere between 2 and 5% of revenue generated

Recommendation

Consent is sought to progress with payments of £6,243.95 per annum with effect from 29 September 2011. These payments will be input into Horizon as a Licence fee which will allow the automatic payment to occur each year.

Give the asset is currently sat in a Route Cost Centre any payments put through our management system will automatically come from the Route Cost Centre. PS will then make a transfer of funds from the PS CC to the Route Cost centre as per the split indicated in the Table above

Signed:



Designation: Surveyor - LNE

Endorsed:



Designation: Property Services Manager - LNE

Approved:



Designation:

Approved:



Designation:  - Route Financial Controller

Summary Report

Network Rail Wayleave Rentals

Blyth and Tyne Railway

Northumberland Estate

Northumberland

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Appendix 1 – Railway Plan

Appendix 2 – Northumberland Estate Plan

Appendix 3 - Letter from Wardell Armstrong Dated 7th April 2014

Appendix 4 – Agreements and Transcripts

Background

Bruton Knowles have been instructed to support Network Rail in their negotiations with Wardell Armstrong who act for the Duke of Northumberland's estate with regard to claims for royalties for moving coal across part of the estate. The basis of their claim is founded in three historic agreements between Network Rail's predecessor companies and The Northumberland Estate (the Estate).

The agreements relate to a section of railway track that runs between Seghill and Percy Main and Backworth and Palmersville in South Northumberland. A plan of the Railway lines are shown at Appendix 1. The track runs across land which we believe to be in the ownership of the Duke of Northumberland. A plan of the estates ownership showing the railway lines coloured green is attached at Appendix 2.

The agreements date back to time when the original Railway Company agreed a royalty payment for rights to build and use a railway across the Northumberland estate property. Following Nationalisation we understand that the responsibility to fulfil liabilities within the agreements falls to Network Rail.

The agreements define a payment system, whereby Network Rail pay the Estate a certain sum depending on the weight of coal and other carbons carried on the line. Historically Network Rail were able to obtain specific information in relation to these weights from the various freight companies that use the section of Rail. This information became unavailable to Network Rail in 2011, the weights and therefore rentals could not be calculated specifically. We are advised rent has not been paid for approximately 4 year, although a notional £100 has been held on account. (Please see attached letter at Appendix 3)

Wardell Armstrong have suggested that their client is seeking to enter into a modern agreement with Network Rail at revised rentals that are subject to regular increases.

We understand that there are several agreements with the Estate. These include the following :

- Agreement dated 15th May 1853
- Agreement dated 30th July 1867
- Agreement dated 29th July 1867

We have set out a summary of each of the agreements under separate headings below. Please note that some of the documents provided are transcripts and we have therefore not had sight of the original documents. We have also not been provided with the specific legal plans and our report has been based on the information we have been provided with. We recommend that these details are verified by your solicitors.

From the information provided by Wardell Armstrong and from reviewing the agreements and transcripts we understand that the documents relate to the Blythe and Tyne Railway. We have been provided with a plan that details the land owned by the Northumberland Estate in relation to the

railway line, which has been attached at Appendix 2. Please note that this plan has been provided by The Duke of Northumberland's agent and we have not carried out any title searches to confirm that this is correct.

We understand that the section of line between Palmersville and Backworth is subject to the agreement dated 30th July 1867 and that the Section of line between Percy Main and Seghill is subject to the agreement dated 10th May 1853. There is also an alteration dated 29th July 1867, which we understand forms the basis of rents currently collected by Wardell Armstrong on behalf of the estate. Wardell Armstrong have advised that recent rental payments have ranged from £2,000 to £5,000 per annum.

Agreements and Legislation

Below is a summary of the agreements and transcripts provided to Bruton Knowles by Wardell Armstrong. Copies of the Agreements are provided at Appendix 4:

Agreement Dated 10th May 1853

We have been provided with a transcript of an agreement made between The Duke of Northumberland and The Blyth and Tyne Railway Company. The agreement permits rights of way over Railway branches in the Manor of Tynemouth and the branch railway at Percy main junction for 1,000 years from 25th March 1852. The document refers to further rights in relation to addition branch lines as defined in Blyth and Tyne Railway Act 1852 (we have not had sight of this document). The agreement permits Goods, Coal, Coke, Culm, Cinders, Cattle and Goods to be transported. We understand that the agreement relates to a section of line located between Seghill and Percy Main, as shown on the plan at Appendix 2.

In return for the rights granted, The Blyth and Tyne Railway Company agreed to pay an annual rent of 5 Shillings for every Ten of Coals, Coke, Culm or Cinders that pass over the line. The agreement confirms a ten as being 17.5 Newcastle Chaldrons of fifty three hundred weights each. Rentals are also said to be due for passenger's cattle and goods which pass over the line.

There also appears to be a provision within the agreement to charge for cattle and passengers. Our understanding is that the rental calculation appears to relate to 2% of the gross amount payable or charged by the company, subject to a maximum of £500 per year.

We understand that the basis of rental payment was altered following a subsequent agreement dated 29th July 1867, which is discussed below.

Agreement Dated 29th July 1867

We have been provided with a transcript pertaining to this agreement, which we understand relates to an amendment to previous agreements in terms of how rents are calculated. The amendment predominantly appears to relate to the payment of the wayleave rents which are altered to every ten of coals, coke, culm and cinders up to 15,000 tens a rental of 5 shilling shall be due. For every additional ten up to an additional 10,000 tens a rental of 2 shillings sixpence shall be due for each ten. In respect of the additional tens up to 25,000 tens a return of 1/3 is made to "the company" for small indentures (small coals). It would appear the return cannot exceed the amount of rent for the additional 10,000 tens.

The agreement goes to state that any tens of coals coke, Culm or cinders exceeding 25,000 tens (15,000 tens +10,000 tens) a payment of 1 shilling per ten for round coals and all coke, Culm and cinder and a payment of 6 shillings per ten for all small coals. Small coals are defined as those which

will pass through a screen with wires no more than 5/8 of an inch apart and large coals described as those that will not.

We are advised by Wardell Armstrong that this amendment forms the basis of their current rental calculations.

Agreement dated 30th July 1867

We have been provided with a copy of this agreement however there are some parts that are not readable. It is our understanding that this agreement is similar in terms of the rental calculations as the amendment dated 29th July 1867. The agreement is also for a period of 1,000 years.

The document relates to payment of rents which are similarly based upon every ten of coals, coke, Culm and cinders up to 15000 tens incurring a rental of 5 shilling. For every additional ten up to an additional 10,000 tens will a rental of 2 shillings sixpence shall be due for each ten.

There also appears to be a provision within the agreement to charge for cattle and passengers. Our understanding is that the rental calculation appears to relate to 2% of the gross amount payable or charged by the company, subject to a maximum of £500 per year.

We understand from Wardell Armstrong that the figures detailed in the agreement dated 29th July 1867 are those that are used for calculating all of the rental payment and not those detailed above, although there may be similarities. We would recommend that this is confirmed by reference to previous payments prior to 2011.

Wardell Armstrong have suggested that no demand for rentals relating to passengers has ever been demanded. We have never had sight on any confirmation in this respect.

Extract from Report Dated 26th July 1904

We have been provided with an extract which we understand is dated 26th July 1904. We are advised by Wardell Armstrong that this is part of the rationale as to why this section of railway was excluded from Nationalisation.

Railway Nationalisation

Following World War II we understand that the Railway Industry was Nationalised under The Transport Act 1947. As such many railway lines became property of the state. Whilst we have been provided information relating to an exclusion from Nationalisation in 1904, we have not had sight of any information which confirms the lines were excluded from any Nationalisation under the Transport Act 1947.

Rent Calculations

For the purposes of the agreements we understand that a Ten equates to 17.5 Newcastle Chaldrons and that there are 53 hundred weight in a Newcastle Chaldron. We therefore understand that there are 927.5 Hundred Weights in a Ten. There are 20 hundred weights in 1 ton and 46.375 tons in a Ten. Therefore we understand that 1 Ten equates to approximately 42 metric tonnes.

Based on the figures detailed above, we understand that 5 shillings or 25 pence is payable to the estate for every 42 tonnes of coal up to 630,000 metric tonnes, which could equate up to £3,750. Then for up to an additional 420,000 tonnes 12.5p per 42 tones, which could equate to £1,250. Any additional materials above 1,050,000 metric tonnes will be charged at 5 pence per 42 tonnes or 0.119 pence per tonne for large coal, coke, Culm and cinder.

There is the possibility of a return, which we calculate could not exceed £1,250.

There is an additional clause which refers to coal, coke or cinders arising from an area edged pink on a plan. We have not had sight of this plan to comment further.

According to Wardell Armstrong's calculations 25 pence is payable per 47.12 for the first 706,800 tonnes and 12.5 pence per 47.12 tonnes for the next 471,200 tonnes. They also suggest that the rates are both subject to a rebate of 6.25 pence per 47.23 tonnes of small coal. Any coal in excess of 1,178,000 tonnes attracts a payment of 5 pence per 47.12 tonnes for road coal and 2.5 pence per 47.12 tonnes for small coal.

Negotiations

We understand that negotiations have been ongoing for approximately 4 years. In this time we are lead to believe that no Rental payments have been made in respect of the above railway lines. In a meeting with Wardell Armstrong of 14th May 2015 , we were advised that Karen Maddison of Network Rail had made a proposal which detailed a suggested rent of £5,000 per annum. We understand that this offer was declined by Wardell Armstrong.

We comprehend from our meeting of 14th May 2015, that Wardell Armstrong are seeking a revised agreement which includes Increased rental figures and a provision for annual increases ideally in line with The Retail Prices Index. We understand that Wardell Armstrong would look for any revised rental levels to be in line with prevailing market conditions. Whilst we have not carried out any research in respect of this, given that the current rentals were agreed 148 years ago, we consider that there may be scope for a significant increase. Wardell Armstrong will only accept a rental based on the current agreements should they be provided with the tonnage figures for all trains using the railway lines. We understand that these figures are currently unavailable.

Recommendations

We understand that Wardell Armstrong are, looking to recommend that their client enter into a new agreement with Network Rail. We believe that the rationale behind their position is to increase the rentals due under the agreements and include provisions for the rents to increase significantly.

The current agreements do not appear to have allowed for any increase since the agreements were made some 148 years ago. As such it would not appear to be in the interest of Network Rail to enter into a new agreement with the Duke of Northumberland, as it is likely that such an agreement would have increased rental liabilities.

During our discussions with Wardell Armstrong, they were insistent that the specific tonnage figures are provided so that the rent can be calculated accurately and will not accept any rental payments on indicative tonnage figures. We are advised by Network Rail that the various freight companies that utilise the railway lines are unwilling to provide specific tonnage data. As such specific rental figures cannot be calculated. This issue forms the main basis of argument in terms of why Wardell Armstrong believe that a new agreement should be entered into, although there may appear to be no specific obligation for Network Rail to do so.

The issues are predominantly legal in nature and we therefore recommend that legal advice is sought, in particular the following items should be addressed by Network Rail's solicitors:-

We would recommend that your solicitors seek to comment on any verify any possible obligations to enter into a revised agreement.

Advice to determine as to what potential recourse the Duke of Northumberland could potentially have should specific tonnage figures be unavailable.

We would also suggest that Network Rail look to obtain figures that could be used to calculate the maximum tonnage that could have possibly passed over the railway lines in any given year. For instance, assuming that figures relating to the maximum number of freight trains that could have possibly used the routes could be obtained, this could be multiplied by the maximum permitted tonnage or length of train. This may therefore produce a maximum tonnage that could have possibly used the lines in any given year and could be multiplied by the figures stipulated in the agreements to arrive at a maximum rental figure. If this could be provided and Network Rail were willing to recommend a payment on this basis, we would need to understand what recourse The Duke of Northumberland would have should they not accept such a proposal. In this instance, could it also be deemed that Network Rail have acted reasonably, looking to pay the maximum possible rental that could possibly be due under the existing agreements.

In addition to the above we would recommend that verification is sought to determine that the relevant railway lines were excluded from nationalisation under the Transport Act 1947 and any prior or subsequent acts of similar effect.

Network Rail
George Stephenson House
Toft Green
York
YO1 6JT

Your Ref:
Our Ref: (PL)JCH.CRB.NOR103.425
Document No: wh21791644v1
Date: 30 September 2018
Direct Line:
Direct Fax:
Email Address:

By e-mail and post for the attention of Philip Glynn

Philip.Glynn@networkrail.co.uk

Dear Sirs

Our Client: The Trustees of the Duke of Northumberland 1972 Settlement
(Grandchildren's Appointment)
Blyth & Tyne Railway Wayleave

We act on behalf of the Trustees of the Duke of Northumberland 1972 Settlement (Grandchildren's Appointment), the owners of the land over which Network Rail has the benefit of a Wayleave Agreement dated 10 May 1853 as varied/supplemented by a Grant of Alteration dated 29 July 1867 (together "the Wayleave")

As you are aware, the Wayleave grants a licence/right to the Blyth and Tyne Railway Company and its successors in title to use the railway running over our client's land for a term of years absolute subject to payment of the rents reserved by and as more particularly set out in the Wayleave. As evidenced by subsequent correspondence and dealings, the benefit of the Wayleave is now vested in Network Rail and all obligations therein binding upon it.

We are instructed that, notwithstanding the very clear contractual obligations in the Wayleave to pay such rents, Network Rail has failed to pay any of the rents due since 25 March 2011. This is despite numerous reminders having been sent by our clients' instructed agents, Wardell Armstrong. We enclose copies of the relevant rent demands evidencing that the amount due and outstanding from you is £41,626.31.

This is a wholly unacceptable situation.

Furthermore, we are advised that since 2013 Wardell Armstrong have, at the request of Network Rail, attempted to engage in discussions to update and modernise the arrangements but strictly on the basis that until terms could be agreed (if at all) the existing terms of the Wayleave continue and must be complied with. We are advised that the

Ward Hadaway Solicitors

Sandgate House, 102 Quayside, Newcastle upon Tyne NE1 3DX
Tel: +44 (0)191 204 4000 Fax: +44 (0)191 204 4001 DX: 730360 Newcastle upon Tyne 30
Email: legal@wardhadaway.com Web: www.wardhadaway.com

Also at: Leeds and Manchester

Authorised and Regulated by the Solicitors Regulation Authority
(Registration Number 204387) A list of Partners is available at all offices.



relevant appointed officers at Network Rail have consistently failed to engage with Wardell Armstrong regarding this proposal to modernise the terms of the Wayleave or in relation to the outstanding rents, failed to return calls and failed to respond to correspondence.

Our client is not prepared to allow the situation to continue and we must accordingly insist that payment of all the sums due is made in full within 14 days from the date of this letter and that you provide written confirmation that all future rents reserved by the Wayleave will be paid on time and all the other terms of the Wayleave fully complied with.

In the event that payment is not received, our client's position is fully reserved and we will be instructed by our client to take all necessary steps:

1. to recover payment of all the outstanding sums together with interest and costs;
2. to obtain injunctive relief to prevent you from using the railway line; and
3. to forfeit/terminate the Wayleave.

Yours faithfully



Ward Hadaway

Enclosure(s)

Wardell Armstrong LLP

City Quadrant, 11 Waterloo Square, Newcastle upon Tyne, NE1 4DP, United Kingdom
Telephone: +44 (0)191 232 0943 Facsimile: +44 (0)191 261 1572 www.wardell-armstrong.com



Our ref: JLI/MS/CJG/NT02144/0159
Your ref:

Date: 04 June 2018

[REDACTED]
Surveyor (Property Services)
Network Rail
George Stephenson House
Toft Green
York
YO1 6JT

Dear [REDACTED]

**Trustees of the Duke of Northumberland 1972 Settlement (Grandchild's Appointment)
Blyth & Tyne Wayleave**

I enclose two Interim Wayleave Rent Demands for rents due 25 March 2017 and 25 March 2018 totalling £12,487.90. These are based on the average rent payable over the period 2011-2016 as per Nigel Billingsley's enclosed spreadsheet. The total amount now due is £41,626.31 and I would be grateful if you would arrange a BACS payment in this amount to the **"TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972 SETTLEMENT (GRANDCHILD'S APPOINTMENT)"** (Sorting Code 20-58-17 Account No. 80055484) and forward the remittance advice note confirming the above payment direct to this office. Please note that the aforementioned Rent Demands are marked "Interim" pending clarification of the exact tonnages.

Yours sincerely
for Wardell Armstrong LLP


MARK SMITH
Associate Director
msmith@wardell-armstrong.com

Encl. Interim Rent Demands (25 March 2017 & 25 March 2018)
Nigel Billingsley's spreadsheet

c.c. [REDACTED] Network Rail



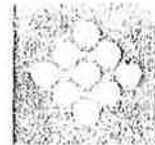
Wardell Armstrong is the trading name of Wardell Armstrong LLP, Registered in England No. OC307138.

Registered office: Sir Henry Doulton House, Forge Lane, Etruria, Stoke-on-Trent, ST1 5BD, United Kingdom

UK Offices: Stoke-on-Trent, Birmingham, Cardiff, Carlisle, Edinburgh, Glasgow, Greater Manchester, Central Manchester London, Newcastle upon Tyne, Sheffield, Truro, International Offices: Almaty, Moscow

ENERGY AND CLIMATE CHANGE
ENVIRONMENT AND SUSTAINABILITY
INFRASTRUCTURE AND UTILITIES
LAND AND PROPERTY
MINING AND MINERAL PROCESSING
MINERAL ESTATES
WASTE RESOURCE MANAGEMENT

NETWORK RAIL
COMMERCIAL PROPERTY
DESK 89, FLOOR 1B
GEORGE STEPHENSON HOUSE
TOFT GREEN
YORK YO1 6JT



In account with

Our Ref:

NT02144/0029

TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972
SETTLEMENT (GRANDCHILDREN'S APPOINTMENT)

Date Due:

25-Mar-17

INTERIM

BLYTH & TYNE EASEMENT

To: **SURFACE WAYLEAVE RENT** under the agreement with the Old
Blyth & Tyne Railway dated 29 July 1867, for the period 26
March 2016 to 25 March 2017:

6,243.95

GROSS AMOUNT DUE

£6,243.95

Please arrange payment through the BACS system as follows:

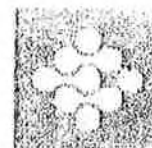
**TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972
SETTLEMENT (GRANDCHILDREN'S APPOINTMENT)**

(Sorting Code: 20-58-17 Account No: 800554840)

and forward the Remittance Advice Note to:

**WARDELL ARMSTRONG LLP
CITY QUADRANT
11 WATERLOO SQUARE
NEWCASTLE UPON TYNE
NE1 4DP**

NETWORK RAIL
COMMERCIAL PROPERTY
DESK 89, FLOOR 1B
GEORGE STEPHENSON HOUSE
TOFT GREEN
YORK YO1 6JT



in account with

Our Ref:

NT02144/0030

TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972
SETTLEMENT (GRANDCHILDREN'S APPOINTMENT)

Date Due:

25-Mar-18

INTERIM

BLYTH & TYNE EASEMENT

To: **SURFACE WAYLEAVE RENT** under the agreement with the Old
Blyth & Tyne Railway dated 29 July 1867, for the period 26
March 2017 to 25 March 2018:

6,243.95

GROSS AMOUNT DUE

£6,243.95

Please arrange payment through the BACS system as follows:

**TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972
SETTLEMENT (GRANDCHILDREN'S APPOINTMENT)**

(Sorting Code: 20-58-17 Account No: 800554840)

and forward the Remittance Advice Note to:

**WARDELL ARMSTRONG LLP
CITY QUADRANT
11 WATERLOO SQUARE
NEWCASTLE UPON TYNE
NE1 4DP**

Our ref: JLI/MS/CJG/NT02144/0145
Your ref:

Date: 26 April 2017

[REDACTED]
Surveyor (Property Services)
Network Rail
George Stephenson House
Toft Green
York
YO1 6JT

Dear [REDACTED]

**Trustees of the Duke of Northumberland 1972 Settlement (Grandchild's Appointment)
Blyth & Tyne Wayleave**

Further to our meeting on 6 April 2017, it has been agreed that your Company should make a payment of £31,219.73 for the period 25 March 2011 to 25 March 2016. I therefore enclose a Wayleave Rent Demand and I would be grateful if you would arrange a BACS payment of £31,219.73 made payable to the "TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972 SETTLEMENT (GRANDCHILD'S APPOINTMENT)" (Sorting Code 20-58-17 Account No. 80055484) and forward the remittance advice note confirming the above payment direct to this office.

Yours sincerely
for Wardell Armstrong LLP



Encl. Rent Demand (25 March 2016)

c.c. [REDACTED] Network Rail



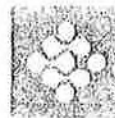
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MINERAL ESTATES AND QUARRYING
WASTE RESOURCE MANAGEMENT

NETWORK RAIL
COMMERCIAL PROPERTY
DESK 89, FLOOR 1B
GEORGE STEPHENSON HOUSE
TOFT GREEN
YORK YO1 6JT



In account with

Our Ref:

NT02144/NE/0027

TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972
SETTLEMENT (GRANDCHILDREN'S APPOINTMENT)

Date Due:

25-Mar-16

BLYTH & TYNE EASEMENT

To: **SURFACE WAYLEAVE RENT** under the agreement with the Old
Blyth & Tyne Railway dated 29 July 1867, for the period 25
March 2011 to 25 March 2016:

31,219.73

GROSS AMOUNT DUE

£31,219.73

Please arrange payment through the BACS system as follows:

TRUSTEES OF THE DUKE OF NORTHUMBERLAND 1972
SETTLEMENT (GRANDCHILDREN'S APPOINTMENT)

(Sorting Code: 20-58-17 Account No: 800554840)

and forward the Remittance Advice Note to:

WARDELL ARMSTRONG LLP
CITY QUADRANT
11 WATERLOO SQUARE
NEWCASTLE UPON TYNE
NE1 4DP

Network Rail And Duke of Northumberland Estate

Background

Network Rail does not own the freehold title to a section of the Blyth and Tyne Railway in Northumberland, and in fact has a 999 year lease of the line that was taken from the Duke of Northumberland in the mid 1950's

A condition of the lease stipulates that the Duke of Northumberland should be entitled to a certain monetary value for every ten (weight measurement equivalent to 46.375 ton's) of coal, coke, culm or cinder that passes over the line.

Payment History

It is understood that the Dukes agent at Wardell Armstrong once obtained figures direct from the individual FOCS and then calculated the royalties due and invoice NR directly. Given the relatively small amounts involved payment was automatically paid. Known historic payments are in the region of between £1,000 and £2,000 per annum.

From 2008 however the Dukes agents encountered understandable problems in obtaining this information due to presented reasons of confidentiality by the FOCS. NR themselves have historically found it hard to accurately calculate the tonnages of material and no payment has been made since 2007 apart from a "one off" payment in 2011. Unfortunately it is not known why this one off payment was made or by who.

Current Position

The Duke of Northumberland has been threatening legal action against NR specifically and unfortunately NR is not able to supply information to which it has no access. Senior freight surveyor, John Cooper has managed to obtain the number of trains passing over the Dukes line however was unable to obtain actual tonnages taken over the track.

Number of Trains on Blyth and Tyne Railway 2011 – 2015

Year	Number of trains
2011/12	1027 trains
2012/13	884 trains
2013/14	1469 trains
2014/15	1338 trains
2015/16	703 trains

Whilst train number illustrate how many journeys take place they do not show the tonnages therefore to calculate some figures the total possible tonnages per train have been used to calculate the following payments now due to the Duke;

2011/12 -	£6,013.45
2012/13 -	£5,437.21
2013/14 -	£7,794.56
2014/15 -	£7,266.67
2015/16 -	<u>£4,707.84</u>

£31,219.73

The total amount of royalties now due is £31,219.73. Historically, from the Horizon system, Property Services have made the payments in respect of this matter Duke is getting increasingly frustrated as are his agents Wardell Armstrong. They are using NR's lack of payment and lack of detailed tonnages as a means to pressure NR into a modern agreement with a modern valuation method and ultimately a substantially higher rent. Under the existing or an alternative modern lease, can we say approximately what the future financial implications could be?

Additional Future payments

There is an additional issue as the agreement also allows the Duke to charge 5% of revenue from passenger transport which may be instigated in the next few years. There is therefore potential for a significant royalty due when passenger trains go on the track.

Options

Going forward there are two options – continue to pay rent with the risk that the rent will increase substantially once passenger trains begin operation or negotiate a capital payment to buy out the royalty obligation in perpetuity.

Option 1

From the figures above, the average rent is circa £6,000 per annum however as stated above this may substantially increase once passenger trains begin operations. The Duke is entitled to 5p per £1 from ticket sales. For example, if ticket sales achieve £500,000 per annum the Duke will be entitled to an additional £25,000.

Option 2

To buy out the royalties it is unlikely a deal will be achieved based on the current passing rent as the Duke is fully aware of Network Rails intention to introduce passenger trains. If an average rental (assuming passenger trains are running) totals £31,000 a capital sum based on a yield of 4% would be £775,000. A capital sum based on previous payments circa £2,000 have been rejected by the Duke therefore to tempt his to releasing NR from this covenant it is suggested a figure of anywhere between £250,000 - £750,000 will be required.

Conclusion

In the first instance the debt needs to be cleared with the Duke. The calculate figure above is the maximum amount now due to the Duke. It is recommended that negotiations commence to settle the amount of the outstanding debt up to a sum of £25,000. A meeting has been requested with Network Rail and Wardell Armstrong to discuss the outstanding rents together with the Dukes views of how the agreement should work going forward.

DRAFT

Appendix One – summary of current rental calculations

The rents payable being as follows (summary of Extract from Grant of Alteration in Wayleaves Dated 29th July 2867): 2867?

- 1 5 shillings for every ten of coals, coke, culm and cinders passing over the railway up to 15,000 tens in any year
- 2 2 shillings and 6d. for every additional ten in excess of 15,000 tens/year
- 3 A refund of 1 shilling and 3d being allowed for each ten of "small coal" included in the first 25,000 tens/year PROVIDED that the rebate never exceeds the total amount that would have been derived at 2 shillings and 6d. the rebate to be take into account on 25th march each year
- 4 There the annual quantity of coal etc. exceeds 25,000 tens the following rates to apply
 - a. 1 shillings for all large or round coals and all coke, culm, cinders; and
 - b. 6d for all small coals (i.e coal less than 5/8th of an inch)
- 5 PROVIDED ALWAYS that a wayleave of 5 shillings per ten shall be payable for any coals, coke, culm or cinders arising from the pink land (called Extra coals, coke, culm or cinders) but such coals shall not be included in the 15,000 tens mentioned in point 1 above. Although this rate will apply if the company could use a cheaper/nearer route.

Notes

1 ten = 17 ½ Newcastle Cauldrons

1 Newcastle Cauldrons = 53 cwt

1 ten = 927.5 cwt

20 cwt = 1 ton

1 ten = 46.375 ton

APPENDIX D

[REDACTED]
Network Rail Infrastructure Ltd
Legal and Corporate Services
Square One
Travis Street
Manchester M1 2NY

Your Ref:
Our Ref: AJC.NOR103.425
Doc No: 32100625v1
Date: 09 July 2021

By email:

Dear [REDACTED]

**Our Client: The Trustees of the Duke of Northumberland 1972 Settlement (Grandchildren's Appointment)
Blyth & Tyne Railway Wayleave**

I act on behalf of the Trustees of the Duke of Northumberland 1972 Settlement (Grandchildren's Appointment), the owners of the land over which Network Rail has the benefit of a Wayleave Agreement dated 10 May 1853 as varied/supplemented by a Grant of Alteration dated 29 July 1867 (together "the Wayleave").

As you are aware, the Wayleave granted licence to the Blyth and Tyne Railway Company and its successors in title to use the railway running over our client's land for a term of years absolute subject to payment of the rents reserved by and as more particularly set out in the Wayleave. As evidenced by subsequent correspondence and dealings, the benefit of the Wayleave is now vested in Network Rail and all obligations therein binding upon it.

I am instructed that, notwithstanding the very clear contractual obligations in the Wayleave to pay such rents, Network Rail has yet again failed to pay rents that are due under the Wayleave. This is not the first occasion that this has happened and my client, as I am sure you will appreciate, is far from impressed that a body such as Network Rail appears intent on seeking to avoid its quite clear contractual commitments. This is a wholly unacceptable situation.

In relation to the current failures, I have been provided with copies of recent e-mail exchanges between our client's agent (Mark Smith of Wardell Armstrong) and various representatives of Network Rail culminating in the e-mail from you to Mark Smith on 26 May 2021 at 16:20.

I note from that last e-mail that you appear to be suggesting that Network Rail believe that the Wayleave only provides for payments in respect of "all Coals Coke Culm and Cinders". That is absolutely and undisputably not the case.

I attach to this letter the following for ease of reference (although I assume you will have copies of these documents already):

1. The Wayleave Agreement dated 10 May 1853;
2. A transcript of the Wayleave Agreement dated 10 May 1853;

Ward Hadaway LLP is a limited liability partnership registered in England and Wales under number OC430614. Registered office: Sandgate House, 102 Quayside, Newcastle upon Tyne, NE1 3DX where a list of members' names is available for inspection. We use the word "partner" to refer to a member of Ward Hadaway LLP. Authorised and regulated by the Solicitors Regulation Authority (No. 817773).

Sandgate House, 102 Quayside
Newcastle Upon Tyne
NE1 3DX
UK
730360 Newcastle Upon Tyne 30

3. A transcript of the Grant of Alteration dated 29 July 1867.

Under the terms of the original 1853 Agreement, the Blyth & Tyne Railway Company was granted "all that wayleave or right of way over and along the Railway branches byways or sideways in through and over the lands and grounds of the said Duke in the Manor of Tynemouth..." and the right to use those railways and branches for the "leading conveying and carrying with engines wagons wains trucks and other carriages over and along the said railways and branches of coals coke culm cinders cattle and other goods" and also for the "leading conveying and carrying of carriages and passengers". That agreement was not therefore limited to just the use of the lines for the transportation of coals coke culm and cinders. That agreement then went on to reserve two separate payments, one in respect of coals coke culm or cinders (at that time being a rent of 5 shillings for every 10 of each of them) but in addition reserved a separate rent in respect of passengers cattle and goods passing over the railways and branches. On that second rent, where the rent in respect of coals coke culm and cinders was less than £500.00 in any year (which is the case now and has been for some years) the second rent would be a figure equating to 2% of all sums payable to or charged by the Blyth & Tyne Railway Company or its assigns for the use of the line for the passing and conveying of all passengers cattle and goods in any year. In other words, the rent due to our client will be 2% of all the income generated by your client (including rail access charges) in respect of the use of the line in any given year. It is therefore quite clear that rents are due in respect of the transportation of wood chips/biomass to the Lynemouth Power Station.

The later 1867 grant of alteration amended the basis for calculation of the rents payable under the 1853 Agreement but only in respect of coals coke culm or cinders. It left the rent payable in respect of passengers cattle and other goods unchanged.

It is recognised by my client that there may be some benefit to agreeing a more up to date basis for charging rent and that was the basis for the suggestion of a rate for woodchip/biomass by Wardell Armstrong. On an entirely without prejudice basis, our client remains prepared to do so but there must first be an immediate payment in respect of rents due in respect of the period from March 2018 to March 2021. In that regard, we will need a full disclosure of Network Rail's accounts in relation to its operation of this line and in particular copies of the agreements it has with all freight operators running trains on the line and all charges levied to those operators for the use of the line for the relevant period. Our client will also need to see all supporting accounts, invoices, records and other supporting documentation on a full open book basis to enable it to verify and determine the correct amount of rent that should be paid.

In the alternative, my client would accept payment on the basis of the rent demand issued by Wardell Armstrong, in other words a payment of £590,376.00 exclusive of VAT for the period 25 March 2018 to 25 March 2021.

I must also point out that we are aware that since 2013 Wardell Armstrong have, at the request of Network Rail, attempted to engage in discussions to update and modernise the arrangements but strictly on the basis that until terms could be agreed (if at all) the existing terms of the Wayleave continue and must be complied with. We are advised that the relevant appointed officers at Network Rail have consistently failed to engage with Wardell Armstrong regarding this proposal to modernise the terms of the Wayleave or in relation to the outstanding rents, failed to return calls and failed to respond to correspondence.

Our client is not prepared to allow the situation to continue and we must accordingly insist that payment of all the sums due is made in full within 14 days from the date of this letter and that you provide written confirmation that all future rents reserved by the Wayleave will be paid on time and all the other terms of the Wayleave fully complied with.

In the event that payment is not received, our client's position is fully reserved and we will be instructed by our client to take all necessary steps:

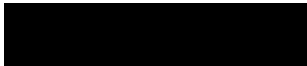
1. to recover payment of all the outstanding sums together with interest and costs;
2. to exercise the rights of re-entry contained in the Wayleave and to forfeit/terminate the Wayleave; and
3. (if considered necessary) to obtain injunctive relief to prevent Network Rail from using the railway line immediately upon the exercise of the rights of re-entry contained in the Wayleave and upon termination of the Wayleave.

In the meantime and until payment of the outstanding sums are made, no trains must be permitted to pass along the line. The Wayleave is quite clear that the rights granted are subject to the payment of rents and those rights cannot and must not be exercised where there has been any failure to pay rents on time and in full. Any continued use of the line will be considered to be an actionable trespass and my client reserves its position fully should any trespass occur. Please confirm by return that the necessary instructions have been given and steps taken to ensure that this happens and in particular please confirm that all freight operators using the line have been informed of the need to suspend their operations.

Yours sincerely



Partner
For Ward Hadaway LLP



APPENDIX E

Your reference AJC.NOR103.425

Our reference CJ/43283-3427

12 August 2021

Ward Hadaway LLP
Sandgate House
102 Quayside
Newcastle upon Tyne
NE1 3DX

Dear Sir / Madam

Your Client: The Trustees of the Duke of Northumberland 1972 Settlement (Grandchildren's Appointment)

**Our Client: Network Rail Infrastructure Limited
Blyth & Tyne Railway Wayleave**

We are instructed by Network Rail Infrastructure Limited. We refer to your letter of 9 July addressed to Jayne Hamer in our client's Legal Department. We have been instructed to respond.

As you are aware, Northumberland County Council has applied for an Order pursuant to the Transport and Works Act 1992, namely The Northumberland Line Order which is supported by our client. Your firm has lodged an objection on behalf of Northumberland Estates.

You will further be aware that Article 35 of the proposed Order deals with the Wayleave Agreements (Wayleaves) in favour of your clients or Northumberland Estates as the case may be. In particular it is proposed that any obligation to pay rent under the Wayleaves will cease to have any effect and that in place of that obligation Network Rail will pay a capitalised sum by way of compensation for any loss arising from that proposal.

Your letter concerns alleged rent arrears of £590,376 for the period 25 March 2018 to 25 March 2021, or £196,792 per annum. Our client refutes that there are any arrears and, for the avoidance of doubt, that £196,792 is the yearly rent payable pursuant to the Wayleaves. We are instructed that our client has paid, and your client has accepted, the yearly sums of £6,243.95 up to and including 28 September 2021. Rent is therefore fully paid up to date.

The approach of our client to the Order sought by Northumberland County Council is that the payment to the owner of the land will fully compensate it for the loss of rents in the manner contemplated by the Land Compensation Act 1961 and your clients will be able to make representations about the level of compensation in the usual way.

In addition our client is perfectly willing to negotiate the Wayleaves payment outside the scope of the Order especially given that the yearly rents are relatively modest. However threats to forfeit the Wayleaves and/or to seek an injunction are unhelpful and misconceived and any such action taken by your client would be vigorously defended. We trust that in light of the information provided above your clients will now withdraw the threat.

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We look forward to hearing from you.

Yours faithfully

Addleshaw Goddard LLP.

Addleshaw Goddard LLP

Direct line
Email

