

THE NORTHUMBERLAND LINE ORDER

PUBLIC INQUIRY 9-12, 16-19, 23-26 NOVEMBER, 30 NOVEMBER - 3 DECEMBER 2021

PROOF OF EVIDENCE OF COLIN COTTAGE

**ON BEHALF OF THE NORTHUMBERLAND ESTATES (OBJECTOR 21) AND THE RIGHT
HONOURABLE DELAVAL THOMAS HAROLD LORD HASTINGS BARON HASTINGS
(OBJECTOR 12)**

APPENDICES

PLANNING INSPECTORATE AND PLANNING CASEWORK UNIT REFERENCE:

(DPI/P2935/21/19)

Colin Cottage
Ardent Management Ltd
201 Borough High Street
London
SE1 1JA

DDI: 07768 070255
Email: colincottage@ardent-management.com

List of Appendices to Proof of Evidence of Colin Cottage

Document	Page
<u>CC01 - Northumberland Estates Supporting Statement</u>	1
<u>CC02 - NESS Schedule 1 a schedule of meetings between the Estate, NCC, SLC Property and NR</u>	14
<u>CC03 - NESS Schedule 1A a schedule of relevant correspondence between the Estate and the above parties in respect of the proposed Northumberland Line</u>	16
<u>CC04 - NESS Schedule 2 a schedule of communication with NR in respect of payments under the wayleave agreements</u>	18
<u>CC05 - NESS Schedule 2A a schedule summarising rent charges and payments under the wayleave agreements from 2011 to date</u>	28
<u>CC06 - Pinsent Masons Letter dated 11 August 2021 to Ward Hadaway</u>	30
<u>CC07 - Wayleave Agreement 10 May 1853 & Transcript & Transcript of Grant of Alteration 29.07.1867</u>	36
<u>CC08 - Wayleave Agreement 20 May 1853 Lord Hastings</u>	47
<u>CC09 - Wayleave Agreement 30 July 1867 & Transcript</u>	60
<u>CC10 - Agenda for meeting - 25 November 2020</u>	73
<u>CC11 - Email 14 Dec 2020 Julia Robson (NE) to Russell Mills (SLC)</u>	75
<u>CC12 - Email 19 April 2021 Russell Mills (SLC) to Julia Robson, Colin Barnes, Rory Wilson (NE)</u>	78
<u>CC13 - Minutes of 20 April 2021 meeting</u>	80
<u>CC14 - Email 26 May 2021 Mike Robbins (NCC) to Rory Wilson (NE)</u>	83
<u>CC15 - Email 28 May 2021 Rory Wilson (NE) to Mike Robbins (NCC)</u>	85
<u>CC16 - Email 9 June 2021 Mike Robbins (NCC) to Rory Wilson (NE)</u>	86
<u>CC17 - NE Minutes of 15 June 2021 meeting</u>	87
<u>CC18 - SLC Minutes of 15 June 2021 meeting</u>	91

<u>CC19 - Email 1 July 2021 Russell Mills (SLC) to Julia Robson, Rory Wilson, Colin Barnes (NE)</u>	93
<u>CC20 - Email 22 July 2021 Russell Mills (SLC) to Jen Cuthbert (NE)</u>	94
<u>CC21 - Email 22 September 2021 from Duncan O'Connor (PM) to Frank Orr (WH)</u>	95
<u>CC22 - Letter 30 September 2021 from Frank Orr (WH to Marnix Elsenaar (AG)</u>	96
<u>CC23 - Email 01.10.21 from Marnix Elsenaar (AG) to Frank Orr (WH)</u>	97
<u>CC24 - Supporting Statement from The Delaval Estate</u>	98
<u>CC25 - Wayleave Plan</u>	103
<u>CC26 - Email 10 May 2021 from Julia Robson (NE) to Russell Mills (SLC)</u>	104

TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006
NORTHUMBERLAND LINE
DFT REFERENCE: TWA/21/APP/03 OBJ/21

STATEMENT ON BEHALF OF THE NORTHUMBERLAND ESTATES

Introduction

1. Northumberland County Council ("NCC") is the promoter of the Northumberland Line Order ("the Draft Order") to which the Northumberland Estates is a statutory objector and has submitted both an objection and a Statement of Case. The "Northumberland Estates" is the term used to represent all of the business and other interests of the Duke of Northumberland (from time to time) and the Percy family and is referred to herein as "the Estate".
2. The Estate set out its objection to the Draft Order in its letter dated 7 July 2021 to the Secretary of State for Transport ("the Objection Letter"). A letter of response to the Objection Letter, dated 11 August 2021 was received from Pinsent Masons, acting on behalf of NCC ("Pinsent Masons' Response") (Appendix CC6). Subsequently both the Applicant and the Estate submitted Statements of Case.
3. As is evidenced in both the Objection Letter and the Statement of Case the Estate objects to the inclusion in the proposed Draft Order of Article 35 which seeks to render ineffective wayleave agreements that subsist over land owned by the Estate and over which the existing railway line to be used for the Northumberland Line passes. A Public Inquiry is scheduled to commence on 9 November 2021 at which Mr Colin Cottage BSc (Hons) MRICS of Ardent Management will give evidence on behalf of the Estate.
4. This statement is made in support of the Estate's objection. In the interests of making best use of Inquiry time it is to be appended to the proof of evidence of Mr Cottage. In the event that any of the matters contained within it are in dispute, and it is considered of assistance to the Inspector for a witness for the Estate attend to speak to this statement I would be pleased to do so. References in this statement to Appendices are to the numbered appendices appended to the proof of evidence of Mr Cottage.
5. I am Roderick Charles St. John Wilson and I am Chief Executive Officer of the Estate. By profession, I am a Chartered Surveyor FRICS. I have overall responsibility for managing the Estate and report directly to the Duke of Northumberland and the Trustees of the various trusts. My prior roles with the Estate commenced when I was appointed as Agent for the Estate in January 1990, taking over responsibility as Head Agent/Managing Director in June 1992.

6. The business and other interests of the Estate can broadly be split into two elements, the traditional estate held for the most part by the various Ducal and Percy family trusts, and the commercial estate which is owned by a number of different companies all of which are within the same group and in respect of which Northumberland Estates Limited is the parent.
7. By way of general background, all of the land held by the Estate is managed on a day to day basis under my overall responsibility. Authority to do so is delegated by the Trustees to me in relation to trust held property and assets, directly by the Percy Family members in respect of personally held property and assets and in relation to company held property and assets I am a director of all the Estate companies. In so far as trust held property and assets of the Estate are concerned clear objectives are set in relation to the general management of them in a 5 year business plan approved by the Trustees. The Trustees also meet twice a year to discuss general management matters relating to the property and assets of the various trusts. The activities of the Estate in relation to the management of the trusts is subject to scrutiny by an audit committee on an annual basis.
8. This statement briefly covers the Estate's position regarding:
 - Dealings with NCC and Network Rail ("NR") in relation to the Northumberland Line, including specifically in relation to the proposed Article 35 of the Draft Order;
 - Site specific issues arising from the Draft Order; and
 - General concerns with the Draft Order.
9. There are referred to in this statement various relevant documents which are appendices to the proof of evidence of Mr Cottage. These include the following schedules:
 - Schedule 1 is a schedule of meetings between the Estates, NCC, SLC Property ("SLC", advisers to NCC) and NR (Appendix CC2);
 - Schedule 1A is a schedule of relevant correspondence between the Estates and the above parties in respect of the proposed Northumberland Line (Appendix CC3);
 - Schedule 2 is a schedule of communication with NR in respect of payments under the wayleave agreements (Appendix CC4); and

- Schedule 2A is schedule summarising rent charges and payments under the wayleave agreements from 2011 to date (Appendix CC5).

Dealings with NCC and NR

10. The Estate's principal objection to the Draft Order concerns the inclusion of Article 35, which seeks to modify the existing wayleave agreements between the Estate and NR ("the Wayleave Agreements") such that rent payments are to cease. It should be noted that railway rights of use are already in place and have been since 1853 pursuant to and by virtue of the Wayleave Agreements. The concerns of NR are in respect of rent payments which likewise have been in existence for almost 170 years and will be available for a further 830 years.
11. Whilst it is acknowledged and accepted that, quite properly, there have been meetings between the Estate and NCC in respect of the Northumberland Line those meetings and discussions have focussed almost entirely on site specific issues. There has been in contrast no discussion in advance of the submission of the Draft Order regarding the issue now raised in the form of Article 35 and the Estate had no inkling prior to the submission of the Draft Order that powers were proposed to be taken in the form of Article 35.
12. As will be seen from Schedule 1, whilst there have been meetings between the Estate and NCC in relation to the Draft Order, NR was not present with the exceptions of the meetings on 25 November 2020 and 15 June 2021. At that first meeting, which was prior to the submission of the Draft Order, there was no reference to the proposed Article 35 or compensation for cancellation of rental payments.
13. The sole discussion that has occurred was with Mr Holroyd of NR at a meeting of 15 June 2021, subsequent to the submission of the Draft Order. It was relatively cursory and dealt not with Article 35 per se but with issues around the Wayleaves Agreements more generally. Moreover, despite commitments given at that meeting by NR to provide detailed information there has been no subsequent communication from it.
14. Indeed having reviewed the correspondence and minutes of meetings between the Estate and NCC in respect of the Northumberland Line in retrospect I am very disappointed by the apparent lack of candour on the part of NCC in respect of its intentions to apply for the removal of rental payments under the Wayleave Agreements. In short NCC has approached the Estate in an apparent spirit of openness, ostensibly seeking to resolve issues by agreement. However such cooperation and transparency is undermined by the stark omission of any advance

notice whatsoever of the principal issue - which it must surely have been aware would be of concern to the Estate.

15. The attached Schedule 1 sets out the meetings that have taken place. The chronology includes the following:

- 15.1. At the 25 November 2020 meeting at which AECOM, the principal design advisers to NCC in respect of the proposed Northumberland Line, were to provide an *"introduction to the Scheme"* (Appendix CC10), yet no mention was made of any proposed changes to the Wayleave Agreements. At the same time the minute of the meeting acknowledged that the Draft Order would be submitted in Spring 2021.

- 15.2. Following that meeting by email of 14 December 2020 (Appendix CC11) Julia Robson of the Estate wrote to Russell Mills of SLC stating,

"matters that will need to be resolved include 1) updating of the wayleave agreement for the Blyth and Tyne Railway Line and potential payments..."

The reference above to "updating the wayleave agreement" and "potential payments" was in the context of the communication between the Estate (via its agent Wardell Armstrong) and NR in relation to the Estate's attempts to chase payments for outstanding rents under the Wayleave Agreements and not in response to any suggestion at the meeting by NR / NCC that a provision such as that now contained in Article 35 was going to be so included. I deal further in this Statement in relation to the difficulties the Estate has encountered in recovering payment from NR of payments due under the Wayleave Agreements.

- 15.3. By email of 19 April 2021 (Appendix CC12) Russell Mills of SLC wrote to the Estate stating:

"On a more general point, in order to move our discussions forward I have drafted a first attempt at Heads of Terms for a Land and Works Agreement between NE and NCC which formalises the arrangements for each of the land parcels and rights required by the scheme. As per the wording in the HoTs, we would very much like to reach a mutually agreeable position without the need to incur the time and financial burden of taking them through the Transport and Works order process. I would welcome your comments on the draft HoTs".

The draft heads of terms (HoTs) contained no reference therein to the Wayleave Agreements or any proposed changes thereto. Specifically no reference to the proposed amendment to remove the rental payments was included.

- 15.4. At the meeting the following day, 20 April 2021, no mention was made by NCC of the Wayleave Agreements as demonstrated by the minute (Appendix CC13).
- 15.5. Under cover of letter dated 26 May 2021 (Core Document APP-00) NCC's solicitors Pinsent Masons submitted the Draft Order to the Secretary of State.
- 15.6. At 17.10 on 26 May 2021 Mike Robbins, Strategic Estates Manager at NCC, emailed me (Appendix CC14) stating that:

"I am writing to update you of Northumberland County Council's intention to include a provision in the forthcoming Transport and Works act Order for the Northumberland Line Project that will remove Network Rail's obligation to pay rent under the relevant wayleave Leases for the stretches of line owned by the Duke of Northumberland

If you are familiar with the existing provisions, I'm sure you would agree that they are outdated and unclear in the context of the modern railway, so it's appropriate for them to be revoked and replaced with an entitlement to compensation.

We will be in touch in due course to discuss compensation and whether it is relevant to the stretches of line owned by the Duke of Northumberland.

I hope that this is clear – if you would like further information please do not hesitate to contact me."

- 15.7. I replied to Mr Robbins on 28 May (Appendix CC15) noting my familiarity with the provisions within the Wayleave Agreements and their acceptability. I specifically sought clarification of NCC's intentions which the letter containing notice of the Draft Order submission did not make clear. I suggested a meeting. By email of 9 June 2021 (Appendix CC16) Mr Robbins replied suggesting that the matter be dealt with at a pre-arranged meeting for 15 June 2021. He suggested that, "I don't know if you particularly want or need to be there or whether we can pick up with colleagues".
- 15.8. In any event I did in fact attend the 15 June 2021 meeting between the Estate and NCC which was also attended by James Holroyd of Network Rail. The Estate's minute (Appendix CC17) states that Russell Mills acknowledged that:

"it was very late on that [NCC] felt the situation should be used to streamline the current arrangement which was complicated mechanism for payments..."

There was discussion about what was being proposed in respect of the Wayleave Agreements and it was minuted that:

"R[ussell] M[ills] is to come back with clarity on the wayleaves".

- 15.9. I note that there is a divergence of the record of the meeting in that the SLC minutes record (Appendix CC18), in the context of discussions in respect of the Wayleave Agreements and the rationale for inclusion of what is now Article 35, that there were:

"Two options in terms of the payments (1) for the chrystalisation of payments due under the Wayleave Lease leading to a one-off compensation payment to be agreed, or (2) an updating of the current wayleave lease and modernisation of the payment calculation and criteria..... RW stated that Option no.1 would be his preference.."

I can confirm that I did not say this at the meeting and I do not consider that this aspect of the SLC Minute is an accurate record of the meeting.

- 15.10. By email of 1 July 2021 (Appendix CC19) Russell Mills replied:

"In terms of the wayleave fees provision, I understand that this is still being confirmed internally at network rail. As soon we're able to do so, we" be back in touch with more detail."

- 15.11. On 22 July 2021 (Appendix CC20) Russell Mills emailed the Estate stating that the meeting to be arranged for August:

"is for a meeting to discuss general land requirements but not including any issues such as Holywell LX and wayleaves leases which will require the participation of Network Rail".

- 15.12. Subsequently, in the absence of any communication from NR, the Estate's solicitors, Ward Hadaway LLP, approached NCC seeking to discuss the Wayleave Agreements issue on a without prejudice basis. The request was referred to NR as indicated in email correspondence of 22 September (Appendix CC21). The respective solicitors for the Estate (Ward Hadaway LLP) and for NR (Addleshaw Goddard) spoke on 23 September. As at the time of preparation of this statement the Estate's availability for such meeting has been re-affirmed in a letter of 30 September (Appendix CC22). Via its solicitors, all that NR has been able to confirm, which it did on the 1st October (Appendix CC23), was that it is willing to have a meeting subject to it deciding who would be best placed to represent it. At the time of writing this Statement we have had no follow up from NR or its lawyers (Addleshaw Goddard) since the holding e-mail from Addleshaw Goddard of the 1st October.

16. I would make the following observations in respect of NCC and NR's dealings with the Estate in relation to the Draft Order:
 - 16.1. Although NCC's engagement with the Estate in respect of specific land take matters is appreciated, the omission of any engagement in respect of the Wayleave Agreements is a matter of grave concern.
 - 16.2. The Estate seeks clarification as to how and why this has occurred. In particular the Estate is unclear as to when NCC decided to include Article 35 into the Draft Order, who decided that it should be so included (whether NCC or NR) and what the rationale for its inclusion was. The Estate would reasonably have assumed that if a provision such as Article 35 was to be included in the Draft Order that it would have been so included only after discussion with the Estate about its inclusion.
 - 16.3. If NCC's belief was, as at 19 April 2021 and as evidenced by the email from Russell Mills providing draft heads of terms, that the need for matters to be dealt with at a Public Inquiry could be avoided, then the Estate queries whether at that time NCC had no intention to include Article 35. Or, if it did have such an intention, then surely NR should have considered its impact and progressed discussions with the Estate prior to its inclusion.
 - 16.4. Even after including Article 35 in its proposed Draft Order it did not inform the Estate until after 5pm on the day the Draft Order was submitted to the Secretary of State. That email would very much appear to be an afterthought.
 - 16.5. The only meeting at which NR has been represented (other than the meeting on 25th November 2020) was on 15 June 2021 and which meeting post-dates the drafting and submission of the Draft Order.
 - 16.6. If, as is suggested in the minute of 15 June, it was "very late on" that the Article 35 provision was included, then the Estate would like to know on what basis that decision was made.
 - 16.7. If the inclusion late in the day of Article 35 is at the behest of NR rather than NCC then that places an even clearer obligation on the part of NR to engage with the Estate in respect of it. The failure of NR in that regard is wholly unacceptable conduct by a body which seeks to rely upon draconian public powers of compulsion
 - 16.8. Although the meeting on 15 June 2021 at which NR was present involved discussion of the Wayleave Agreements, that was only insofar as identifying the principal issues and points of contention. NR agreed and committed to put a proposal to the Estate

within the following week. However more than three months later we have had no approach from NR to seek a resolution regarding compensation.

17. As noted above other than its attendance at the meeting on 15 June 2021, convened with NCC, NR has not seen fit to progress contact and discuss matters with the Estate other than holding responses. Indeed we have had no approach whatsoever since then from NR. It has instead been left to the Estate expressly to seek a without prejudice meeting with NR.
18. As I understand it, the absence of any meaningful advance discussion and effort to seek agreement is contrary to the general spirit of guidance in respect of compulsory purchase. We accept the NCC position that Article 35 is not a power of compulsory acquisition but it is an interference with contractual rights and as such it is plainly appropriate to seek to settle by agreement in advance of using legislative powers of coercion. There has consequently not been an opportunity for any detailed exchange of views or consideration of options or alternatives.

Dealings with Network Rail in relation to the existing wayleaves and recovery of rent under them

19. It is stated by the Applicant in the Explanatory Memorandum that the Wayleave Agreements *"do not reflect the way in which the modern railway is owned and operated and give rise to the potential for disagreement between the parties"*. In relation to the longer history over the years between the Estate and NR, there has been the expected level of discourse associated with agreements such as these. Whilst the agreements are of course not modern, at their heart their key provisions are relatively straightforward and do not give rise to the ambiguity or uncertainty surrounding their interpretation that the Applicant suggests.
20. Rather I consider the key issue to be the fact that there are payments due to the Estate arising from usage of the line, and NR would prefer that there were not. Whilst that may be commercially desirable from its perspective it is not a sufficient justification for the proposed Article 35 provision. The kernel of past disagreements that have arisen in relation the Wayleave Agreements derive from NR, over the last ten or so years, consistently failing to provide the information that NR is required to provide under the terms of the Wayleave Agreements in order to enable us to make the necessary calculations of the rents due and then to issue rent demands to NR.
21. To give some context to the Wayleaves Agreements and discussions with NR in relation to payments under them it is appropriate to note that until approximately 2010

payments under the Wayleaves Agreements were made by NR (and its predecessor) without any notable issue generally upon submission of a rent demand. Essentially, the Estate's agent appointed to manage the arrangements Wardell Armstrong ("Wardells") would contact the relevant freight operators direct for details of coal tonnages and other freight. Following receipt of that information, Wardells would undertake a calculation of the rent due under the Wayleave Agreements, issue a rent demand to NR and payment would then subsequently be forthcoming. In around 2010 there was suddenly a reluctance on behalf of the freight operators to pass the information requested direct to Wardells and this meant Wardells needed to liaise direct with NR in respect of obtaining the tonnage and other information required given ultimately it was NR that was and is responsible for making the payments under the Wayleave Agreements and for complying with the obligations in the Wayleave Agreements to provide the relevant information. It is in relation to this specific issue that the Estate have subsequently found it very difficult to recover payments due under the Wayleave Agreements – i.e. as a result of the lack of information forthcoming from NR for Wardells to then be able to undertake the payment calculation and issue a rent demand to NR. I have attached a schedule of correspondence between Wardells / NR as Appendix CC4 which demonstrates the difficulties that Wardells have encountered from March 2014 until the present day in receiving the necessary information required from NR.

Site Specifics

22. There are a number of site-specific aspects to the Draft Order to which the Estate have objected. Whilst it is understood that the Applicant will prepare and circulate proposals by way of proposed modifications to the Draft Order no such proposals have been received at the time of preparing this Statement and I cover each element of the site specific objections below

Algernon Bridge

23. The Estate have a particular concern arising out of the Draft Order in respect of works proposed to Algernon Bridge ("the Bridge"). Whilst there is an agreement (a deed dated 22 November 2002) pursuant to which Nexus has certain maintenance responsibilities in respect of the Bridge, the Bridge is owned by the Estate. As part of the Draft Order I understand that it is proposed that works be undertaken to construct a staircase / lift shaft and "tie-in" these works to the structure of the Bridge. The Estate is concerned as to the significant additional liability that could arise as a result of these works both during construction and as part of any subsequent use and clarification is

therefore sought as to who is to take on responsibility for such works and how this will be addressed through the Draft Order so as to ensure that the Estate is not left with any liability in relation to the maintenance and use of the Bridge or any part of it. It would be wholly inappropriate to expect a private landowner to retain responsibility and liability for what is quite clearly a piece of public infrastructure even if only in part. The Draft Order does not deal with this issue at all despite this point having been raised by the Estate on numerous occasions with NCC and its agent. In this regard I would refer to the Estate e-mails to SLC dated 14th December 2020 (Appendix CC11) and 10th May 2021 (Appendix CC26).

24. Moreover it is noted from page 56 of NCC's Statement of Case that NCC is seeking to deal with revised maintenance arrangements and liabilities at this location in discussion with Nexus. It is also noted from paragraph 36 of Pinsent Masons' Response to the Estate's objections (Appendix CC6) that NCC is happy to discuss these emerging arrangements further with the Estate. We are amenable to such discussions, and previously made this clear in paragraph 22 of the Statement of Case for the Estate, however to the best of my knowledge the Estate has not yet been approached by NCC to initiate negotiations since the submission of the Draft Order.

Holywell UWRC

25. The Estate objects to the proposed compulsory acquisition of plot 95a together with the extinguishment of the private right of way comprised in the Holywell user-works railway crossing (between points P23 and P23a on sheet 3 – Core Document APP-13). It is not apparent in particular what the claimed justification is for the acquisition given that rights for railway use appertain through the Wayleave Agreements. In addition the proposed freehold acquisition would unjustifiably remove all other rights enjoyed by the Estate through its ownership of the land, such as bridging rights.
26. I note that NCC has acknowledged on page 56 of their Statement of Case that Plot 95a has been wrongly included and are amenable to seeking an agreed solution in relation to the arrangements at Holywell UWC. I understand from the minutes of the Pre-Inquiry Meeting that a schedule of proposed modifications is to be provided by the Applicant by 12 October and that the Applicant will liaise with the Estate on the proposed modifications. To date, there has been no further liaison to deal with the erroneous inclusion of Plot 95a and I am not aware that NCC has as yet approached the Estate to initiate discussions surrounding Holywell UWC.

Plots 102a – 106 / Underpass

27. The Estate objects to the proposed acquisition of plots 102a-106 inclusive for the purposes of a new underpass. This would be excessive in terms of proposed compulsory purchase of freehold interests. As I have already noted, and more generally, railway rights of use are already in place pursuant to and by virtue of the Wayleave Agreements. In addition, Article 19 of the Order expressly authorises the acquisition of subsoil interests in land. Any acquisition should therefore be limited to such rights/interests as are necessary and in conjunction with the deletion of Article 35 Estate interests should be retained. At page 56 of NCC's Statement of Case the Estate's concerns would appear to be addressed to my satisfaction on this point, subject the requisite modification of the Draft Order.

Northumberland Park Station / MSCP

28. Similarly, I note the response on pages 56-57 of NCC's Statement of Case to the Estate's objection in relation to Plot 64, a multi-storey car park ("MSCP") adjacent to the proposed Northumberland Park station. NCC have proposed to remove the car park building from plot 64 on a revised sheet of the Land and Works Plans. However to the best of my knowledge this has not yet happened. I would like further clarification regarding the power in the Draft Order to create new rights insofar as this relates to Plot 64, in particular the nature, extent, and justification for such rights.

General matters referred to in the Estates Statement of Case

29. The Estate has highlighted in paras 13-20 of its Statement of Case matters that the Estate considers need to be addressed in relation to the Draft Order. Such issues include:
- 29.1. whether there is a compelling case for the Draft Order;
 - 29.2. the structure of the Draft Order and delivery roles;
 - 29.3. prematurity; and
 - 29.4. lack of operational case.

30. Rather than repeat the points mentioned in respect of each of the above I cross refer to the case as articulated in the Estate's Statement of Case

Statement of Truth

31. Notwithstanding that this is a written submission in support rather than a proof of evidence per se it is to the best of my knowledge and belief true and I confirm that the opinions expressed are my true opinions.

Signed:



Dated: 12-10-2021

Schedule 1 – Minutes of Meetings with Northumberland Estates

Northumberland Estates (NE)
Network Rail (NR)
Northumberland County Council (NCC)
SLC Property (SLC)

Northumberland County Council (NCC) began public consultation on the Northumberland Line in Autumn / late 2020. It published an 89 page colour public consultation document setting out its proposals.

The public consultation document made no mention of taking any steps in respect of the existing wayleave agreements let alone seeking to remove the rental payments contained within them, as Article 35 of the Northumberland Line Transport and Works Act Order ("the Order") seeks to do.

During the period within which NCC was already progressing the Northumberland Line project and consulting publicly thereon the below meetings were held with Northumberland Estates (NE).

It should be noted that notice of the application for the Order was submitted by NCC to the Secretary of State on 26 May 2021.

DATE	ATTENDEES	AUTHOR	NOTES
25/11/20	Colin Barnes (NE) Julia Robson (NE) Russell Mills (SLC) Alannah Healy (Advising NCC re planning matters) Dominic Foy (Station Designers) Phil Pally (NR)	Northumberland Estates	No discussion of Wayleave Agreements / proposed Article 35 / compensation for cancellation of rental payments
15/01/21	Rory Wilson (NE) Colin Barnes (NE) Julia Robson (NE) Russell Mills (SLC) Allen Creedy (SLC)	SLC	No discussion of Wayleave Agreements / proposed Article 35 / compensation for cancellation of rental payments
15/01/21	Rory Wilson (NE) Colin Barnes (NE) Julia Robson (NE) Russell Mills (SLC) Allen Creedy (SLC)	Northumberland Estates	No discussion of Wayleave Agreements / proposed Article 35 / compensation for cancellation of rental payments
20/04/21	Rory Wilson (NE) Colin Barnes (NE) Julia Robson (NE) Russell Mills (SLC) Allen Creedy (SLC) Alannah Healey (SLC)	SLC (Alannah Healey)	No discussion of Wayleave Agreements / proposed Article 35 / compensation for cancellation of rental payments
15/06/21	Rory Wilson (NE) Colin Barnes (NE) Julia Robson (NE)	SLC (Russell Mills)	Proposed Article 35 not discussed per se. Issues surrounding wayleave agreements discussed. However

	James Holdroyd (NR) Russell Mills (SLC) Allen Creedy (SLC)		minutes from SLC and NE differ on content of discussion. SLC suggests NE may be happy with crystallisation of payments due leading to compensation, but no such commitment was given in NE minutes.
15/06/21	Rory Wilson (NE) Colin Barnes (NE) Julia Robson (NE) James Holdroyd (NR) Russell Mills (SLC) Allen Creedy (SLC)	Northumberland Estates	See above
09/09/21	Julia Robson (NE) Abbie Curtis (NE) Russell Mills (SLC) Chris Moore ()		GI Survey meeting No discussion of Wayleave Agreements / proposed Article 35 / compensation for cancellation of rental payments

Schedule 1A – Emails/Correspondence with Northumberland Estates

Northumberland Estates (NE)
Network Rail (NR)
Northumberland County Council (NCC)
SLC Property (SLC)

DATE	FROM	TO	SUBJECT HEADING	NOTES
25/11/20	Alannah Healey (SLC)	Dominic Foy Phil Pacey Russell Mills (SLC) Julia Robson (NE) Colin Barnes (NE)	Northumberland Park meeting - Agenda	Sending an agenda for the meeting taking place that afternoon re the proposed works at Northumberland Park.
14/12/20	Julia Robson (NE)	Russell Mills (SLC) CC: Rory Wilson (NE) Jen Cuthbert (NE)	Northumberland Line Project, Public Consultation – potential impacts upon Northumberland Estates Land	NE's initial response to NCC's plans.
19/04/21	Russell Mills (SLC)	Julia Robson (NE) Colin Barnes (NE) Rory Wilson (NE) CC – Allen Creedy (SLC)	Update meeting regarding Northumberland Line, 20 th April 2021	Provides update and agenda for meeting the following day. Article 35 not mentioned.
22/04/21	Alannah Healey (SLC)	Colin Barnes (NE) Julia Robson (NE) Rory Wilson (NE) CC: Russell Mills (SLC) Allen Creedy (SLC)	NL and Estates meeting minutes	Sending draft minutes from meeting 20 th April 2021, and asking for comments.
10/05/21	Julia Robson (NE)	Russell Mills (SLC) CC: Rory Wilson (NE) Colin Barnes (NE) Jen Cuthbert (NE)	Land and Works Agreement Heads of Terms Blyth and Tyne Rail Improvement	Response to Heads of Terms. Article 35 does not feature.
26/05/21	Mike Robbins(NC C)	Rory Wilson (NE) CC: Russell Mills (SLC)	Northumberland Line Project – Wayleave Lease Payments	AT 5.10 pm, informing NE of NCC's "intention" in the forthcoming to remove NR's obligation to pay rent and

				replace with entitlement to compensation. However, this was on the same day that NCC submitted the draft TWAO to the Secretary of State.
28/05/21	Rory Wilson (NE)	Mike Robbins (NCC) CC: Russell Mills (SLA) Andrew Robson (NE) Julia Robson (NE)	Northumberland Line Project – Wayleave Lease Payments	Response to Mike Robbins email of 26/05/21 – seeking clarification.
04/06/21	Rory Wilson (NE)	Mike Robbins (NCC)	Northumberland Line Project – Wayleave Lease Payments	Rory prompting Mike for a reply to Rory's earlier email on 28/05/21.
06/06/21	Mike Robbins (NCC)	Rory Wilson (NE)	Northumberland Line Project – Wayleave Lease Payments	Update on arranging a meeting, arrangements in process.
09/06/21	Mike Robbins (NCC)	Rory Wilson (NE)	Northumberland Line Project – Wayleave Lease Payments	Suggesting forthcoming meeting on 15 th June 2021 to discuss wayleave issue. Mike querying whether Rory even needs to be at this meeting at all.
10/06/21	Rory Wilson (NE)	Mike Robbins (NCC)	Northumberland Line Project – Wayleave Lease Payments	Rory: "That's fine."
01/07/21	Russell Mills (SLC)	Julia Robson (NE) Rory Wilson (NE) Colin Barnes (NE) CC: Jen Cuthbert (NE)	Northumberland Line - Meeting Minutes 15.06.21	Minutes provided, comment and amends requested. NB: These minutes are the ones which state that NE would prefer one-off compensation. Contrast with the NE minutes from the same meeting, which do not say this. Email also discusses Algernon Drive Bridge.
22/07/21	Russell Mills (SLC)	Jen Cuthbert (NE) CC: Julia Robson (NE)	Northumberland Line – meeting to discuss land requirements	Email to arrange future meeting NOT to include discussion of the wayleave leases, because NR participation required.

Schedule 2 – Communications with Network Rail

Wardell Armstrong (WA)

Network Rail (NR)

Ward Hadaway LLP – acting for The Northumberland Estates (WH)

Addleshaw Goddard LLP – acting for Network Rail (AG)

DATE	TYPE	FROM	TO	CONCERNING
17/03/10	letter	WA	Damien Arundale (NR)	Request for statement setting out quantities of coke / coal to enable service of rent demand
03/03/14	Email	WA	Karen Maddison (NR)	Request for information to assist in agreeing a new rent – no reply
31/03/14	Email	WA	Karen Maddison (NR)	Request for information to assist in agreeing a new rent
04/04/14	Email	Karen Maddison (NR)	WA	Jessica Rose taking over the case
07/04/14	Letter	WA	Karen Maddison (NR)	Request for information to assist in agreeing a new rent – no reply
21/05/14	Email	WA	Jessica Rose (NR)	Request for information to assist in agreeing a new rent
27/05/14	Email	Jessica Rose (NR)	WA	Phil Tuley taking over the case.
16/06/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent
28/07/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent – no reply
07/08/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent – no reply
15/08/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent – no reply
26/08/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent
01/09/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent – no reply
23/09/14	Letter	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent – no reply

30/09/14	Email	WA	Phil Tuley (NR)	Request for information to assist in agreeing a new rent
16/10/14	Email	WA	Phil Tuley (NR)	Not heard from external agent – no reply.
27/10/14	Email	WA	Phil Tuley (NR)	Still not heard from external agent
28/10/14	Email	Paul Fleming (NR)	WA	Instructions to outsource work is being finalised over next few days.
13/11/14	Email	WA	Phil Tuley (NR) and Paul Fleming (NR)	Still not heard from external agent – no reply
08/01/15	Email	WA	Phil Tuley (NR) and Paul Fleming (NR)	Request for information and still not heard from external agent – no reply
16/01/15	Email	WA	Phil Tuley and Paul Fleming	Chase – no reply.
21/01/15	Email	WA	Phil Tuley (NR) and Paul Fleming (NR)	Chase – no reply
28/01/15	Email	WA	Stuart Hastings (Brunton Knowles)	Providing background as discussed – no reply.
25/03/15	Email	WA	Stuart Hastings (Brunton Knowles)	Chase – no reply
21/04/15	Email	WA	Stuart Hastings (Brunton Knowles)	Chase – no reply
26/05/15	Letter	WA	Stuart Hastings (Brunton kinowles)	Request for information – no reply
23/06/15	Email	WA	Stuart Hastings (Brunton Knowles)	Set out explanation of rents – no reply.
14/07/15	Email	WA	Stuart Hastings (Brunton Knowles)	Chase – no reply
27/07/15	Email	WA	Stuart Hastings (Brunton Knowles)	Chase

27/07/15	Call	Stuart Hastings (Brunton Knowles)	WA	He has prepared and issued a report to Network Rail with a view to making an offer
18/11/15	Letter	WA	Stuart Hastings (Brunton Knowles)	Request for information
23/11/15	Email	Stuart Hastings (Brunton Knowles)	WA	Stuart Hastings has forwarded letter to client but indicated that the deadline for providing information is unreasonable
26/11/15	Email	WA	Stuart Hastings (Brunton Knowles)	Chase – no reply
10/02/16	Email	WA	Stuart Hastings (Brunton Knowles)	Chase
08/03/16	Email	WA	Stuart Hastings (Brunton Knowles)	Chase
08/03/16	Email	Stuart Hastings (Brunton Knowles)	WA	Still awaiting client instructions
11/03/16	Email	Nigel Billingsley (Brunton Knowles)	WA	Small number of issues still to clarify
02/06/16	Meeting			WA set out background and Nigel Billingsley said that he would come back with an offer
07/06/16	Email	WA	Nigel Billingsley (Brunton Knowles)	Good to meet and look forward to hearing from NR
20/09/16	Email	Nigel Billingsley (Brunton Knowles)	WA	NR would prefer to settle the last 6 years and then agree the future position
21/09/16	Email	WA	Nigel Billingsley (Brunton Knowles)	Asking for clarification on what he means
22/09/16	Email	Nigel Billingsley (Brunton Knowles)	WA	I will have to clarify with NR

10/10/16	Email	WA	Nigel Billingsley (Brunton Knowles)	Are you now in a position to make an offer
12/10/16	Email	Nigel Billingsley (Brunton Knowles)	WA	Awaiting confirmation from NR
21/10/16	Email	WA	Nigel Billingsley (Brunton Knowles)	Have you received confirmation?
21/10/16	Email	Nigel Billingsley (Brunton Knowles)	WA	No. I will chase again
07/11/16	Email	WA	Nigel Billingsley (Brunton Knowles)	Any update?
02/12/16	Email	Nigel Billingsley (Brunton Knowles)	WA	Phil Tuley is leaving NR and I need instructions from someone else
20/12/16	Email	WA	Nigel Billingsley (NR)	Chase – no reply
24/01/17	Email	WA	Nigel Billingsley (NR)	Chase
03/03/17	Email	Nigel Billingsley (Brunton Knowles)	WA	Offered an annual rent of £5000 per annum
14/03/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Offer rejected. Offer based on coal only and without any supporting information. The Estate are not only concerned with coal but biomass too
15/03/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Need to agree a new rent quickly
17/03/17	Email	Nigel Billingsley (Brunton Knowles)	WA	Stated that he is taking instructions.
22/03/17	Email	Nigel Billingsley (Brunton Knowles)	WA	Wants to meet WA on 6 April 2017 with Phil Glynn

22/03/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Agreed
06/04/17	Meeting			Nothing agreed in terms of new rent and background explained again. NR provided tonnages for coal for period March 2011 to March 2016. WA requested information within 4 weeks for other freight
30/04/17	Email	WA	Nigel Billingsley (Brunton Knowles)	4 week period ends on Friday
02/05/17	Email	Nigel Billingsley (Brunton Knowles)	WA	I have been on holiday. I will speak to NR
25/05/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Chase for response
26/05/17	Email	Nigel Billingsley (Brunton Knowles)	WA	NR have secured an internal meeting on 8 June 2017
15/06/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Asked for update following meeting
19/06/17	Email	Nigel Billingsley (Brunton Knowles)	WA	NR met and he has to draft something to NR this week
06/07/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Chase – no reply
13/07/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Chase
24/07/17	Letter and email	WA	Philip Glynn (NR) and Nigel Billingsley (Brunton Knowles)	Expressed disappointment at lack of action since previous meeting.
07/08/17	Email	WA	Nigel Billingsley (Brunton Knowles) and	Chase – no reply

			Philip Glynn (NR))	
31/07/17	Email	WA	Nigel Billingsley (Brunton Knowles) and Philip Glynn (NR)	Chase
01/08/17	Email	Philip Glynn (NR)	WA	I apologise for the delay in replying and I am hopeful that I will have a positive response soon
07/08/17	Email	WA	Nigel Billingsley (Brunton Knowles) and Philip Glynn (NR)	I look forward to your positive response
30/08/17	Email	WA	Nigel Billingsley (Brunton Knowles) and Philip Glynn (NR)	Chase
01/09/17	Email	Nigel Billingsley (Brunton Knowles)	WA	I will speak to the client next week
10/10/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Chase – no reply
07/11/17	Email	WA	Nigel Billingsley (NR) and Philip Glynn (Brunton Knowles)	Chase
07/11/17	Email	Philip Glynn (NR)	WA	Apologies for the delay. Hope to have a positive response in the next few weeks
18/12/17	Email	WA	Nigel Billingsley (Brunton Knowles)	Hopefully we can move this along in the New Year
18/12/17	Email	Nigel Billingsley (Brunton Knowles)	WA	Yes I expect progress
22/03/18	Letter	WA	Philip Glynn (NR)	Still waiting for you to revert to me following our meeting nearly a year ago
27/03/18	Email	WA	Nigel Billingsley (Brunton Knowles) and	Expressed disappointment at lack of action and chase – no reply

			Philip Glynn (NR))	
06/04/18	Email	WA	Nigel Billingsley (Brunton Knowles)	Can you move this along
27/04/18	Email	WA	Nigel Billingsley (Brunton Knowles) and Philip Glynn (NR)	Chase
15/05/18	Email	WA	Nigel Billingsley (Brunton Knowles)	Chase
15/06/18	Letter	WA	Philip Glynn (NR)	Letter seeking to recover outstanding rent demands
29/06/18	Email	WA	Nigel Billingsley (NR) and Philip Glynn (NR)	The Estate are now seeking legal advice
30/09/18	Letter	WH	NR	Letter demanding rent payment from NR (enclosing copies of rent demands from WA to NR dated 26/04/17 and 04/06/18)
20/11/18	Letter	WH	NR	Further letter demanding rent payment (and referring to earlier WH letter)
26/11/18	e-mail	Jayne Hamer (NR)	WH	Confirming payment to be made by NR for outstanding rent
29/11/18	E-mail	WH	Jayne Hamer (NR)	Referring to NR e-mail of 26/11/18 and referring to claim for costs in seeking rental payments
30/11/18	E-mail	Jayne Hamer (NR)	WH	Referring to fact payment to be made but need to go through NR internal processes
11/12/18	E-mail	WH	Jayne Hamer (NR)	Referring to fact payment still not made and proposing to commence legal proceedings to recover rent
13/12/18	E-mail	NR	WH	Indicating no need to commence legal proceedings as NR had agreed to make payment
13/12/18	E-mail	WH	NR	Asking when payment was actually going to be made

14/12/18	E-mail	NR	WH	Advising payment would be made following week
12/03/19	Email	WA	Jayne Haymer (NR)	Can she do anything to progress discussions to agree a new rent
12/03/19	Email	WA	Sam Pearson (NR)	Can he do anything to progress discussions to agree a new rent
13/05/19	Email	WA	Philip Glynn (NR)	Chase
14/05/19	Email	Philip Glynn (NR)	WA	Suggested meeting
13/06/19	Email	WA	Philip Glynn (NR)	Suggested dates
13/06/19	Email	Philip Glynn (NR)	WA	Agreed to meet on 27 June 2019. No information offered and nothing agreed
02/07/19	Email	WA	Philip Glynn (NR)	Setting out proposals for new rent
04/07/19	Email	WA	Philip Glynn (NR)	Chase
04/07/19	Email	Philip Glynn (NR)	WA	Referred this to others
29/07/19	Email	WA	Philip Glynn (NR)	Chase – no reply
18/09/19	Email	WA	Philip Glynn (NR)	Chase – no reply
28/10/19	Email	WA	Philip Glynn (NR)	Chase – no reply
11/11/19	Email	WA	Philip Glynn (NR)	Chase – no reply
27/11/19	Email	WA	Philip Glynn (NR)	Chase
27/11/19	Email	Philip Glynn (NR)	WA	Apologies. Let's see if I can move it along
08/01/20	Email	WA	Philip Glynn (NR)	Chase – no reply
03/02/20	Email	WA	Philip Glynn (NR)	Chase.
03/02/20	Email	Philip Glynn (NR)	WA	Apologies. Please bear with me a little longer
28/02/20	Email	Philip Glynn (NR)	WA	James Holdroyd will take these discussions forward
23/03/20	Email	WA	James Holdroyd (NR)	When can I expect to hear from you

23/03/20	Email	James Holdroyd (NR)	WA	I will revert to you once I have spoken to Phil
23/03/20	Email	Philip Glynn (NR)	WA	Please bear with us. The file is in the office and I have no intention of going to the office in line with government guidance
14/04/20	Email	WA	Philip Glynn (NR) and James Holdroyd (NR)	Set out rental proposal based on RPI– no reply
17/04/20	Email	WA	James Holdroyd (NR)	Chase
18/06/20	Email	James Holdroyd (NR)	WA	Can we have a catch up
22/06/20	Call			WA provided background and said that we need to agree rent for biomass
19/10/20	Email	WA	James Holdroyd (NR)	Recently receive a payment for £6,243.95 but need coal and biomass tonnages and chase for counter offer – no reply
13/11/20	Email	WA	James Holdroyd (NR)	Chase – no reply
15/02/21	Email	WA	James Holdroyd (NR)	Chase following prior telephone conversation to agree rental payments from 2019
15/02/21	Email	NR (James Holdroyd)	WA	JH indicated was awaiting figures from colleague to be able to provide details for wayleave payments from 2019 to Feb 2021
15/02/21	Email	WA	James Holdroyd (NR)	Set out rental proposal for woodchips/ biomass– no reply
26/02/21	Email	WA	James Holdroyd (NR)	Chase – no reply to e-mail 15/02/21
22/03/21	Email	WA	James Holdroyd (NR)	Chase – no reply to e-mail 15/02/21
20/05/21	Email	WA	James Holdroyd (NR)	Sending rent demands for biomass freight based on proposal set out in e-mail of 15/02/2021 having had no response to that e-mail or the two subsequent chasing e-mails

26/05/21	Email	Jayne Hamer (NR)	WA	Responding to email from WA 20/05/21. Disputing that agreement has been reached regarding approach to calculation of rent for biomass and saying silence did not equate to agreement.
09/07/21	Letter	Alex Cox (WH)	Jayne Hamer (NR)	Regarding non-payment of rent under the wayleaves by NR. Setting out the very clear terms of the wayleave agreement, statement that non-payment is unacceptable, and action that will be taken in the event of payment not being received
12/08/21	Letter	AG	WH	Response to letter 09/07/21. Highlighting Article 35 of proposed TWAO, disputing the existence and amount of arrears, stating NR's willingness to negotiate wayleave payment outside scope of TWAO.
30/09/21	Letter	Frank Orr (WH acting for NE)	Marnix Elsenaar (AG acting for NR)	Requesting without prejudice meeting.
01/10/21	Email	Marnix Elsenaar (AG acting for NR)	Frank Orr (WH acting for NE) CC: Tatiana Volodina (AG)	Affirming NR's willingness for a without prejudice meeting. Arrangements to follow.

Schedule 2A – Summary of rent charged and paid by Network Rail for the period [25/03/2011 to 24/03/2021]

DEMAND DATE	PERIOD	AMOUNT PAID	REASON FOR PAYMENT	STATUS
29/09/11	30/09/10 to 29/09/11	£100	On account payment towards rent under 1867 agreement	Paid 14/09/11
29/09/12	30/09/11 to 29/09/12	£100	On account payment towards rent under 1867 agreement	Paid 21/09/12
29/09/13	30/09/12 to 29/09/13	£100	On account payment towards rent under 1867 agreement	Paid 29/09/13
29/09/14	30/09/13 to 29/09/14	£100	On account payment towards rent under 1867 agreement	Paid 19/09/14
29/09/15	30/09/14 to 29/09/15	£100	On account payment towards rent under 1867 agreement	Paid 17/09/15
25/03/16	25/03/11 to 25/03/16	£30,719.73	Surface Wayleave Rent on account under 1867 agreement (includes £500 deductions on account payments referred to above)	Paid 14/12/18
29/09/16	30/09/15 to 29/09/16	£100	On account payment towards rent under 1867 agreement	Paid 23/09/16
25/03/17	26/03/16 to 25/03/17	£6,143.95	Surface Wayleave Rent on account towards payment under 1867 agreement (NR paid and WA issued certificate marked "interim" pending confirmation of tonnages)	Paid 14/12/18
29/09/17	30/09/16 to 29/09/17	£100	On account payment towards rent under 1867 agreement	Paid 14/12/18
25/03/18	26/03/17 to 25/03/18	£6,143.95	Surface Wayleave Rent on account under 1867 agreement (NR paid and WA issued certificate marked "interim" pending confirmation of tonnages)	Paid 14/12/18
29/09/18	30/09/17 to 29/09/18	£100	On account payment towards rent under 1867 agreement	Paid 21/09/18
25/03/19	25/03/18 to 24/03/19	£6,143.95	Surface Wayleave Rent towards rent under 1867 agreement (invoiced £3077.70 based on tonnage return)	Paid 19/09/19
29/09/19	30/09/18 to 29/09/19	£100	On account payment towards rent under 1867 agreement	Paid 19/09/19

29/09/20	25/03/19 to 24/03/20	£6,143.95	Surface Wayleave Rent - Payment pending receipt of tonnage figures	Paid 16/09/20
29/09/20	30/09/19 to 29/09/20	£100	On account payment towards rent under 1867 agreement	Paid 16/09/20
29/09/21	30/09/20 to 29/09/21	£6,243.95	Surface Wayleave Rent towards rent under 1867 agreement - Payment pending receipt of tonnage figures	Paid 29/09/21



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

FAO Frank Orr

By email only

11 August 2021

Dear Sirs

**Transport and Works Act 1992 (the 1992 Act)
Application for the Northumberland Line Order 2021[*] (the Order)
Objection by the Northumberland Estate (OBJ21) – 7 July 2021**

1. SLC acts for Northumberland County Council (NCC) in its role as applicant for the above Order which is required to facilitate the Northumberland Line scheme (the Scheme). We write in relation to the objection dated 7 July 2021 (the Objection) submitted on behalf of the Northumberland Estate (the Estate) to the Order.
2. We have responded below to the following matters raised in the objection which relate specifically to the application for the Order: (1) the statutory context for the application for the Order and relevant legal and policy tests; (2) NCC's status as applicant for the Order and delivery roles for the Scheme; (3) assertions by the Estate that the application for the Order is premature; (4) certainty of the Scheme coming forward and realisation of benefits; (4) the content and purpose of article 35 of the draft Order; and (5) concerns relating to specific land owned by the Estate that is proposed to be subject to powers in the Order.
3. We note that the Estate has reserved its position as regards the service of notices as required by the 1992 Act on Viscount Ridley and we have been liaising with representatives of Blagdon Estates to seek to rectify any administrative errors. We understand that the point can now be considered resolved. As such, we have not commented further in this response.
4. NCC very much welcomes the Estate's support for the broad objectives of the Scheme.

Statutory context for the Order and relevant legal and policy tests

5. We note the comments made at paragraphs 6 and 7 of the Objection in relation to the statutory context for the application for the Order and the applicable legal and policy tests. We acknowledge and agree that general scope of orders made under the 1992 Act is broad and but is subject to limits and constraints. It is NCC's view that the scope of the Order is wholly within the relevant parameters of the 1992 Act, given it would authorise matters "*relating to, or to matters ancillary to, the construction or operation*" of a railway (see section 1 of the 1992 Act).

Pinsent Masons LLP

30 Crown Place Earl Street London EC2A 4ES

T +44 (0) 20 7418 7000 F +44 (0) 20 7418 7050 DX 157620 Broadgate

Pinsent Masons LLP is a limited liability partnership, registered in England and Wales (registered number: OC333653) authorised and regulated by the Solicitors Regulation Authority and the appropriate jurisdictions in which it operates. Reference to "Pinsent Masons" is to Pinsent Masons LLP and/or one or more of the affiliated entities that practise under the name "Pinsent Masons" as the context requires. The word "partner", used in relation to the LLP, refers to a member or an employee or consultant of the LLP or any affiliated firm, with equivalent standing. A list of members of Pinsent Masons, those non-members who are designated as partners, and non-member partners in affiliated entities, is available for inspection at our offices or at www.pinsentmasons.com

For a full list of the jurisdictions where we operate, see www.pinsentmasons.com



6. We also agree that NCC will need to provide a robust case as to the need for the compulsory acquisition powers contained in the draft Order, including demonstrating that there is a compelling case in the public interest for such powers. On 9 July 2021, it was confirmed that the Secretary of State would be holding a public inquiry into the application for the Order. As such, it will be for the Inspector at that inquiry to test and formulate a view as to whether the proposals in the Order meet the relevant legal and policy tests, before recommending whether or not the Order should be made. It will then be for the Secretary of State to make the ultimate decision as to whether to make the Order, including whether it should be in the form as applied for by NCC.
7. NCC's evidence to the inquiry will demonstrate there is a compelling case in the public interest for the contents of the Order, as the powers are required to facilitate the delivery of a transport scheme that has clear public benefits. If necessary, the evidence will also address what the Objection claims are 'gaps' in the case put forward to date. It will then be for the Inspector at the public inquiry and the Secretary of State to come to a conclusion on those matters.

NCC's status as applicant for the Order and delivery of the Scheme

8. Paragraphs 8 to 12 of the Objection contains comments in relation to the proposed delivery model for the Scheme.
9. It is not a 'peculiarity' that NCC is the applicant for the statutory powers to deliver the Scheme. The Council's legal capacity to seek these powers is not questioned, but rather the Objection notes that NCC is not 'a rail authority'. There is nothing peculiar about a local authority promoting a transport scheme which will improve connectivity and support economic growth in its area. Indeed, there are a number of examples where third parties which are not 'rail authorities' have applied to promote rail and other local transport schemes. One recent example is the proposed Portishead Branch Line, where an application for development consent under the Planning Act 2008 has been made by North Somerset Council.
10. Whilst NR may be responsible for the delivery of some of the rail elements of the Scheme, it does not follow that NCC is 'semi-detached' from those aspects of the Scheme as is claimed in the Objection. The Scheme is being promoted and delivered as a '3rd party investment' in the national rail network by NCC with financial support from the Department for Transport (DfT).
11. NCC has been working closely with Network Rail (NR) and Northern Trains (NTL), amongst others. NCC has led the development from the initial conceptual stages to the completion of the outline design – including amongst other things. development of the business case, train timetable, project requirements and delivery programme - these have been through the relevant NR approval stages. As such, NCC has had control of the design of the Scheme at all stages and it is therefore appropriate for NCC's land agents, SLC Property, to be conducting engagement with affected landowners such as the Estate. It is therefore not correct to say that 'meaningful discussion' on land-related issues has been compromised. NCC, as applicant for compulsory acquisition powers in the Order has entered into these discussions in good faith with a view to reaching agreement, where practicable. NCC very much sees the use of compulsory acquisition powers as a 'last resort' in line with policy.
12. As the Estate may be aware, the Scheme was brought within the Government's Project SPEED initiative, which resulted in a review of the Scheme's delivery strategy. This resulted in NCC transferring responsibility for the delivery of certain aspects of the Scheme to NR and NTL to maximise efficiency of delivery. However, delivery of the Scheme very much remains with NCC in the lead, coordinating delivery between the partners), undertaking the detailed design for the new stations and structures and procuring and managing the associated construction works. It is therefore entirely appropriate for NCC to be the applicant for the Order, not least that it is in the best position to provide the justification for the design and extent of powers required.
13. As the Estate will be aware, article 28 of the draft Order provides that NCC may transfer the benefit of any of the powers of the Order to NR, such that NR may exercise those powers. The consent of the Secretary of State is not required for such a transfer if it is brought about by way of an agreement between the parties under article 29 of the draft Order. NCC and NR are currently discussing the precise scope of any transfer of the Order powers, as well as other matters including the transfer of



land, which will be confirmed in due course should the Order be made. In summary, it is currently proposed that the station works will be constructed by NCC before being transferred to NR, with the Council retaining ownership of certain car parks. NCC will also be responsible for the works to construct new bridges at Newsham, Blyth Bebside and Chase Meadows. NCC will retain ownership of the former two structures, whilst the Chase Meadows footbridge will be transferred to NR on completion. Works within the railway corridor will be carried out by Network Rail who will retain ownership of the land and assets forming part of the operational railway.

14. As a point of clarification, we note that paragraph 8 of the Objection misinterprets a sentence from the document *The Proposed Northumberland Line Order: A Guide to the Proposed TWA Order*. The reference in that document to “the specific role that the Order will play in providing NCC with powers to support the delivery of the Project” does not mean that NCC’s role is limited to supporting the delivery of the project. Instead, that sentence is referring to the role that the Order powers will play in supporting delivery of the Scheme alongside other permissions and consents.
15. Paragraph 11 of the Objection refers to the use of permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). It should be noted that the Scheme will be relying on, amongst others, a combination of both Part 8 and Part 18 of Schedule 2 to the GPDO to provide planning permission for various works. As the Estate will be aware, whilst Part 8 permitted development is required to be undertaken on operational land of Network Rail, Part 18 permitted development must instead take place on land within the limits of deviation referred to in enabling Acts of Parliament – in the case of the Scheme, these are the various 19th century enactments that authorised the Blyth and Tyne Railway.
16. Hopefully the above has provided some clarification on the delivery of the Scheme, but we would be more than happy to meet with you to discuss these issues in more detail.

Whether the application for the Order is premature

17. In response to the points made in paragraph 13 of the Objection, NCC does not accept that the proposed land take reflects a lack of certainty as to the Scheme’s requirements or that the application for the Order is premature. The land that is proposed to be subject to powers in the Order reflects the extent of land that is required based on the current stage of design development, which is that typically used to define applications for orders under the 1992 Act. The design and its associated land requirements will be refined as the detailed design is produced (as with any infrastructure project), but it is important to secure powers over all land that has been identified at this stage as being required for the Scheme to ensure timely delivery. NCC’s approach has been to seek only the powers necessary to deliver the Scheme, no more, hence the ‘hierarchy’ of powers, as referred to in the Objection. Where outright acquisition is not required, a lesser form of power (such as temporary possession) has been sought.
18. The absence of planning permission and a final design does not mean that the application for the Order is ‘clearly premature’. The proposals contained in the Order have been developed in parallel with the preparation of the planning applications, the remainder of which are being submitted over the next few months.
19. As you know, the Secretary of State will need to be satisfied that there are no impediments to the delivery of the Scheme before making the Order to include compulsory acquisition powers. It will therefore be up to NCC to demonstrate that this is the case at the forthcoming inquiry.
20. We would be more than happy to meet with the Estate to discuss these issues further.

Certainty of the Scheme coming forward and realisation of benefits

21. Paragraphs 14 and 15 of the Objection suggest that no operational case for the Scheme has been made out and therefore ‘on the present basis’ the Secretary of State must decline to make the Order. This rather ignores the process that must be followed before the application is determined.



22. NCC submitted an Outline Business Case (OBC), and subsequent Updated Business Case (UBC) to the DfT that set out and quantified the benefits that could be realised by the Scheme. The OBC and UBC were scrutinised by DfT and approved at its Rail Investment Board on 10 November 2020. This demonstrated that the Scheme has a positive economic case (where the Scheme's benefits outweigh the Scheme's costs) and this led to a further release by DfT of a tranche of funding based on its outputs. NCC will provide evidence on the operational case for the Scheme at the forthcoming inquiry.
23. As is common with projects funded by central Government, the release of the further funding will be conditional on the approval of a Full Business Case (FBC). The FBC will present the overall case for the Scheme (strategic, economic, financial, commercial and management) and will include detailed consideration and quantification of the benefits of the Scheme. This is proposed to be submitted to DfT in autumn of this year.
24. Ultimately, if the DfT is not content with the FBC, the final tranche of funding will not be released and the Scheme will not proceed.
25. It should be noted, however, that the making of the Order is not conditional on the approval of the FBC. As you know, in deciding whether or not to make the Order the Secretary of State will need be satisfied that there are no impediments to the Scheme coming forward, including that all necessary resources are likely to be available to cover the costs of the implementing the powers in the Order. NCC's will submit evidence to the forthcoming inquiry to satisfy this requirement. It will be for the Secretary of State to consider whether the points raised in paragraph 15 of the Objection regarding how the achievement of the Scheme's aims can be measured are relevant to his decision on the application.

Article 35 of the draft Order

26. NCC has been working closely with NR on the content and justification for article 35 in the draft Order, given the fact that the wayleave agreements are between NR and the Estate and their implications extend primarily to the operation of the railway. As such, the responses below have been compiled in collaboration between NCC and NR.
27. For the avoidance of doubt, it should be noted that whilst it may be true that the wayleave agreements do confer rights to operate the existing railway, this is not the issue at hand – instead, that is the rents payable under their terms. Where the compulsory acquisition of rights are sought, these rights are included in the book of reference that accompanied the application for the Order and are the subject of other provisions in the draft Order. The *rights* to operate the railway are not the focus of article 35.
28. Fundamentally, NR considers the existing rent payment arrangements under the wayleave agreements to no longer be fit for purpose given the uncertainty as to their interpretation in a modern context, and pose an inherent risk to the discharge of its statutory duties to operate the railway. As such, article 35 provides for the payment of a commuted sum, in exchange for the extinguishment of the obligation to make rent payments under the wayleave agreements.
29. The Estate contend that the rent payments under the wayleave agreements are not unusual and similar arrangements apply elsewhere on the wider rail network. To the best of NR's knowledge, this is not an accurate characterisation of the situation – it very much considers that the provisions of the wayleaves are unusual. Fundamentally, NR is the freehold owner of the vast majority of the rail network in England and therefore such payment arrangements do not arise.
30. The wayleave agreements were put in place in the 19th century, when the ownership and operational arrangements of the railways were very different to the situation that exists today. Whilst the arrangements may have been appropriate then, they are not now. This can be seen, for example, by the characterisation of the 'goods' in the wayleave agreements, which clearly do not bear any relation to how goods are characterised now. The uncertainty of the language in the wayleave agreements when read in the modern context creates uncertainty and therefore inherent risk to all parties, including NR in the context of its statutory duties.



31. NCC and NR acknowledge that the effect of article 35 would extend to extinguishing rent payments in relation to both passenger and freight services. However, this would not be *ultra vires* in the context of the 1992 Act, as is suggested by the Estate. As set out above, 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*” (note that ‘land’ is not defined to extend only to land that is subject to others powers in the order). In addition, section 5(2) of the 1992 Act provides 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.
32. However, it will be for the Secretary of State to determine whether or not there is a sufficient policy basis for the inclusion of article 35, should the Order be made (although, for the avoidance of doubt, the ‘compelling case in the public interest’ policy test would not necessarily apply, given the scope of article 35 – it is not a compulsory acquisition power). This will need to be considered in the context of article 35(3), which provides for a commuted sum as compensation for the extinguishment of rent payments under the wayleave agreements, determined by the Upper Tribunal in the absence of agreement, thus covering any loss experienced by the Estate and providing certainty for all parties.
33. As set out above, NCC and NR consider there to be no ‘tension’ between their respective roles in the delivery of the Scheme. Passenger services will run on the railway line as normal upon opening – the purpose of article 35 in that context is to remove the uncertainty that currently exists as to their interpretation and to remove an impediment to the operation of the Scheme at a later date, in exchange for a commuted sum payable to the Estate.
34. For all these reasons, NCC and NR are very much of the view that article 35 is a key provision in the Order to provide for the future viability of the operation of the Scheme. In this context, and noting what is said in the Objection, we, along with NR, would be very happy to arrange a meeting to discuss the implications of article 35 in more detail, particularly the level of the commuted sum required.

Land of the Estate subject to powers in the Order

Algernon Bridge (Plots 60-62)

35. For the avoidance of doubt, the Order would not authorise any works to Algernon Bridge – instead, it would secure the rights necessary to facilitate and maintain such works, which would be permitted separately under an express planning permission.
36. We are aware of the interface with Nexus at this location in terms of the current maintenance arrangements and Nexus has submitted its own objection to the Order (amongst others). We are progressing discussions with Nexus which, amongst other items, will seek to deal with any revised maintenance arrangements and liabilities at this location arising from the Scheme. We would be happy to discuss the emerging principles of those arrangements with the Estate, either individually or at a meeting with Nexus.

Holywell UWC (Plot 95a)

37. We acknowledge that the Order (and accompanying Land and Works Plans) provide that plot 95a is subject to powers of outright acquisition. This plot appears to have been included in error and we can confirm that NCC does not require a power of acquisition over this plot. The only powers sought over this land are of the extinguishment of rights over Holywell UWC to facilitate its closure (under article 8 of the draft Order). We would be happy to pursue the removal of the power of acquisition over this plot in the draft.
38. NCC understands that NR is considering the arrangements at Holywell UWC and will shortly be in touch directly with the Estate with a view to reaching a mutually agreeable solution.



Underbridge 36 (Plots 102a-106)

39. We also acknowledge that plots 102a-106 are subject to powers of outright acquisition in the Order, as currently shown on the Land and Works Plans. NCC has considered this point further in light of the Objection and has concluded that these powers are not required for the purpose of the works to the underpass, given the existing rights conferred by the wayleave agreements. However, NCC considers that (on a precautionary basis) powers over these plots are required to deal with any adverse third-party rights that may subsist. As such, NCC proposes that plots 102a-106 remain subject to powers of compulsory acquisition, but that the interests of the Estate in these plots are excluded from the Book of Reference such that the powers in the Order would not apply to them.
40. We hope this provides the Estate with sufficient comfort on this point, but we would be more than happy to discuss it further.

Multi-storey car park adjacent to Northumberland Park Station (Plot 64)

41. NCC has considered the points in the Objection relating to plot 64 and the multi-storey car park and has concluded that the power in the Order to acquire new rights of access does not need to extend to the car park building. As such, NCC proposes to remove the car park building from plot 64 on a revised sheet of the Land and Works Plans. The power in the Order to create new rights will be retained only in relation to the road layout within plot 64 that surrounds the multi-storey car park, as rights to use those roads to access the new station are required on a permanent basis (as well as a need to potentially use those roads during construction).
42. As with the above, we hope this provides sufficient clarity to the Estate on this point, but we would be more than happy to discuss it further.
43. As mentioned above, the project team would be happy to continue and increase our on-going engagement on any of the issues raised in the Estate's objection by way of a meeting or telephone call. If you consider a meeting would be helpful, please contact Russell Mills at SLC Property (07384 832058) so a mutually agreeable time and date can be agreed.

Yours sincerely

for

107
I had also

SEP. XI 11th 1883

will from time to time during the term hereby granted lead and carry by means of the said Railways and Branches all such, loads like butlin bundles butlin and goods as the said Duke has here assigns or requests 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 on payment to the said company or their assigns of such dues and charges for the same loads like butlin bundles butlin and goods as the said company or their assigns shall from time to time be entitled to charge for the same such charges being imperatively made so as not to exceed the charge for like articles passing along the line under like 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 Duke his heirs assigns or requests in estate or his or their Agent or Agents (if thereto required by him or them) a true and perfect account in writing under the hands of two of the Directors of the said company or their assigns of all such loads like butlin and bundles passengers cattle and goods as shall during each month have been carried and conveyed over and along the said Railways and Branches or any part thereof And further that the said Duke has here assigns and requests 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 cost and charges to take copies of the whole or any part of the various or numerous books of presentment and loadings of loads like butlin and bundles and all other books and accounts relating to the getting and loading of loads like butlin and bundles and the conveyance of passengers cattle and goods over and along the said Railways and Branches or any part thereof And also that the said Duke has here assigns and requests in estate may from time to time and at any time or times during the said term hereby granted at his or their own cost and charges appoint keep and employ any person or persons as a clerk or clerks at any of the stations to take an account in writing of all the quantities of loads like butlin and bundles which shall from time to time be led along the said Railways and Branches or any part thereof And the said Duke so far as relates to the acts and defaults of himself his heirs assigns and requests in estate do hereby for himself and them covenant with the said company and their assigns that the said company and their assigns paying the usual rates or sums hereinafter secured and observing and performing the several covenants conditions and agreements herein contained and on their part to be observed and performed may peacefully and quietly have held use enjoy possess and enjoy all and every the liberties privileges powers authorities and franchises hereby granted and reserved in manner aforesaid according to the true intent and meaning of these presents at all times during the said term hereby granted without the least let hindrance or interruption or disturbance of the said Duke his heirs assigns or requests in estate or any person or persons lawfully claiming or to claim by him 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 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 incorporated by the same or any other name include or extend to the company constituted by said incorporation And the said Duke so far as relates to the acts and defaults of himself his heirs assigns and requests in estate do 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 Duke his heirs and assigns that all the clauses and provisions contained in the Statute in relation to the said company which are inconsistent with the Statute and the Statute Act 1862 shall nevertheless so far as the same respectively may be assigned to or inconsistent with any of the terms and provisions of these presents and in these respects subject to those terms and provisions aforesaid and come for the benefit of the said Duke his heirs assigns and requests 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 been and acquired the said lands in which the said Railways and Branches are made of being the true intent and meaning of the said Statute in relation to the said Duke his heirs assigns and requests in estate that the said Railways and Branches shall at all times during the said term hereby granted be maintained and kept open for public use and subject with a due regard to the interests of the public according to those clauses and provisions and the provisions of the Statute and the Statute Act 1862 And also that if and so often as any dispute or difference shall at any time or times hereafter arise between the said Duke his heirs assigns or requests 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 intents 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 be referred into arbitration and shall be determined by arbitration according to the clauses and provisions in that behalf of the Statute in relation to the said Duke his heirs assigns and requests in estate and the said company their assigns shall accordingly be deemed to be part of these presents **In witness** whereof the said Duke hath hereunto set his hand and seal and the said company their assigns have hereunto set their common seal the day and year first above written

Witness my hand and seal
this 11th day of September 1883

Hen. Carr
Clerk

Northumberland

TYPESCRIPT TRANSCRIPTION:

SYON CATALOGUE
DOCUMENT M.XI.11A.h.

This Indenture made the tenth day of May in the year of our Lord one thousand eight hundred and fifty three **Between** His Grace Algernon Duke and Earl of Northumberland Earl and Baron Percy Baron Lucy Poynings Fitz Payne Bryan Latimer Warkworth and Prudhoe and a Baronet Constable of Launceston Castle a Rear Admiral in Her Majesty's Royal Navy and Knight of the Most Noble Order of the Garter of the one part and The Blyth and Tyne Railway Company (hereinafter called "the said Company") of the other part **Witnesseth** that in consideration of the rents hereinafter reserved and of the covenants conditions and agreements hereinafter 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 presents as well by virtue of any power enabling him in this behalf as in respect of his Estate and interest Doth grant demise and to farm let unto the said Company and their assigns (subject and without prejudice to all wayleave and other leases already made and entered into or already agreed to be made and entered into by the said Duke or his predecessors in Estate or any of them with the several or any of the persons composing the said Company or with any other Company or Companies whether incorporated or not incorporated person or persons whomsoever) **All** that wayleave or right of way over and along the Railway branches bye ways or side ways in through and over the lands and grounds of the said Duke in the Manor of Tynemouth in the County of Northumberland as the same are now in the occupation of the said Company Together with full power and authority to use the same and also to use the Branch Railway as now constructed joining the Newcastle and Shields Railway at the Percy Main Junction together with all the houses buildings liberties powers and authorities now used exercised or enjoyed with the said Railway and Branches in and upon the said lands and grounds together also with liberty power and authority to and for the said Company and their assigns to make and construct an additional line or additional lines of Railway adjoining and parallel with the said Railway and Branches and upon the lands described upon the plans and in the Books of Reference referred to in the Blyth and Tyne Railway Act 1852 but so that the said Company or their assigns shall not be entitled to occupy more than fourteen yards in width of such land in any part of the said lands excepting where cuttings and embankments may render a greater width necessary and then only so much thereof as shall be necessary (all which said Railway and Branches byeways sideways and additional Railway or Railways hereafter to be constructed are hereinafter called "the said Railways and Branches") and to enter upon and use and from time to time amend and repair the said Railways and Branches in the usual manner in through over and along the said lands and grounds of the said Duke for the leading conveying and carrying with engines waggons wains trucks and other Carriages over and along the said Railways and Branches of Coals Coke Culm Cinders Cattle and other Goods unto the shipping places now occupied by the said Company at Hayhole and whereat (subject and without prejudice as aforesaid and subject also to the provisions of the Tyne Improvement Act 1852) it shall be lawful for the said company and their assigns from time to time to ship the same and unto any other shipping place or shipping places or to any other place or places whatsoever And also for the leading conveying and carrying of carriages and passengers (Except and always reserved forth and out of this present demise as part of the

compensation for the wayleave rights and powers and privileges hereby demised or intended so to be full and free liberty licence and power for the said Duke his heirs 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 or any part or parts thereof over under or across the said Railways and Branches and to use the same respectively so always that the waggons and traffic of the said Company and their assigns on the said Railways and Branches or any part thereof be not thereby injuriously hindered and so always that the interests of the public be not thereby injuriously affected) **To have and to hold** the said Wayleaves liberties privileges and authorities and all and singular other the premises hereby granted and demised or expressed or intended so to be unto the said Company and their assigns from the twenty fifth day of March one thousand eight hundred and fifty two for the term of One thousand years from thenceforth next ensuing and fully to be complete and ended **Yielding and Paying** yearly and every year during the said term the rent or sum of Five shillings for every Ten of Coals Coke Culm or Cinders (each Ten being calculated for the purposes of these presents as containing seventeen and a half Newcastle Chaldrons of fifty three hundred weight each) which shall during the said term hereby granted pass over and along the said Railways and Branches or any part thereof and in respect of which identical 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 Railways and Branches or any part thereof any wayleave rent or other **Sum** reserved by any other Wayleave Lease or Agreement already or hereafter made and for the time being subsisting the said rent hereby reserved to be paid on the twenty fifth day of March and the twenty ninth day of September 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 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 twenty fifth day of March 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 Cowpen Colliery and Collieries or Royalties situate to the Northward of the River Blyth amount to Five hundred pounds or upwards the rent of One shilling the same to be paid on such twenty fifth day of March and for every year ending with a twenty fifth day of March in which year the rent or sums payable by the said Company or their assigns as aforesaid in respect of such last mentioned Coals Coke Culm and Cinders shall not amount to Five hundred pounds a rent or 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 the said Railways and Branches or any part thereof in the same year of Passengers Cattle and Goods (other than Coals Coke Culm and Cinders) the same to be paid on such twenty fifth day of March 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 **Provided** always that in case the said rents or sums hereby reserved 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 ten 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 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 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 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 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 reentry under this proviso the said Duke 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 holden or enjoyed by virtue of these presents or any part thereof in the name of the whole may reenter 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 reentry 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 premises and every part thereof **And** the said Company do hereby for themselves and their assigns covenant with the said Duke 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 Duke his heirs 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 respectively without any deduction or abatement whatsoever on account of any present or future Landlords or tenants taxes rates assessments charges or payments whatsoever (the Landlords property or income tax on the said rents or sums only excepted) or on any other account whatsoever and will so pay the same 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 landlords and tenants taxes rates assessments charges and payments whatsoever for or in respect of the said premises hereinbefore granted and demised or the said rents or sums or any of them or any part thereof respectively (Landlords property 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 Railways and Branches 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 said Company or their assigns of such dues and charges 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 like 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 Duke his heirs assigns or sequels in estate or his or their Agent or Agents (if thereunto required by him or them) a true and perfect account in writing under the hands of two of the Directors 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 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 Staithmans Books of 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 cattle and goods over and along the said Railways and Branches 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 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** the said Duke so far as related to the acts and deeds of himself his heirs assigns and sequels in Estate doth hereby for himself and them covenant with the said Company and their assigns The said 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 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 Duke his heirs assigns or sequels in estate or any person or persons lawfully claiming or to claim by from or under him them 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 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 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 said Company and 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 Duke his heirs and assigns That all the clauses and 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 provisions operate and enure for the benefit of the said Duke 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 Branches are made it being the true intent and meaning of the said parties hereto that the said Railways and Branches shall at all times during the term hereby granted be maintained and kept open for public use and worked

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 Duke 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 may by the parties interested therein or either of them 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 **In Witness** whereof the said Duke hath hereunto set his hand and seal and the said Company have hereunto affixed their Common Seal the day and year first hereinbefore written.

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^d 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^d/ 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^d/ + 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^d/ 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 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 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>

99

No. 6.

WAYLEAVE LEASE.

This Indenture made the twentieth day of May in the year of our Lord one thousand eight hundred and fifty-three
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

No. 6.

Wayleave
Lease,
20th May,
1853.

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
 A 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
 B 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
 C 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
 D 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 $\frac{1}{3}$ 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
 E 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
 F 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
 G 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
 A 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
 B 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
 C 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
 D 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, 1853.

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

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 G 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. 6.}
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
AND ALSO will not make or suffer to be made any wilful or
- B 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. 6.
 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

...paying the several rents or sums
...and observing and performing the several
...and agreements herein contained and on their
...and performed may peaceably and quietly have
...and enjoy all and every the liberties A
...and premises hereby granted and
...according to the true intent and
...at all times during the said term hereby
...hindrance interruption or
...heirs assigns or sequels in estate B
...claiming or to claim by from or
...PROVIDED ALWAYS that the
...of the said Company wherever in these
...to any and every Company
...shall at any time hereafter be C
...the said Company"
...shall in the event of the said
...include or extend or
...by re-incorporation AND
...and defaults of himself D
...hereby for himself and
...AND the said
...and defaults of themselves
...and assigns covenant
...the clauses and E
...Consolidation Act
...Railway Act
...may be
...provisions of
...terms and F
...Lessor his
...and their
...actually to
...any had
...and G
...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 CARR
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

H

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

Common Seal
of the Blyth and
Tyne Railway
Company.

HASTINGS L.S.

No. 24.

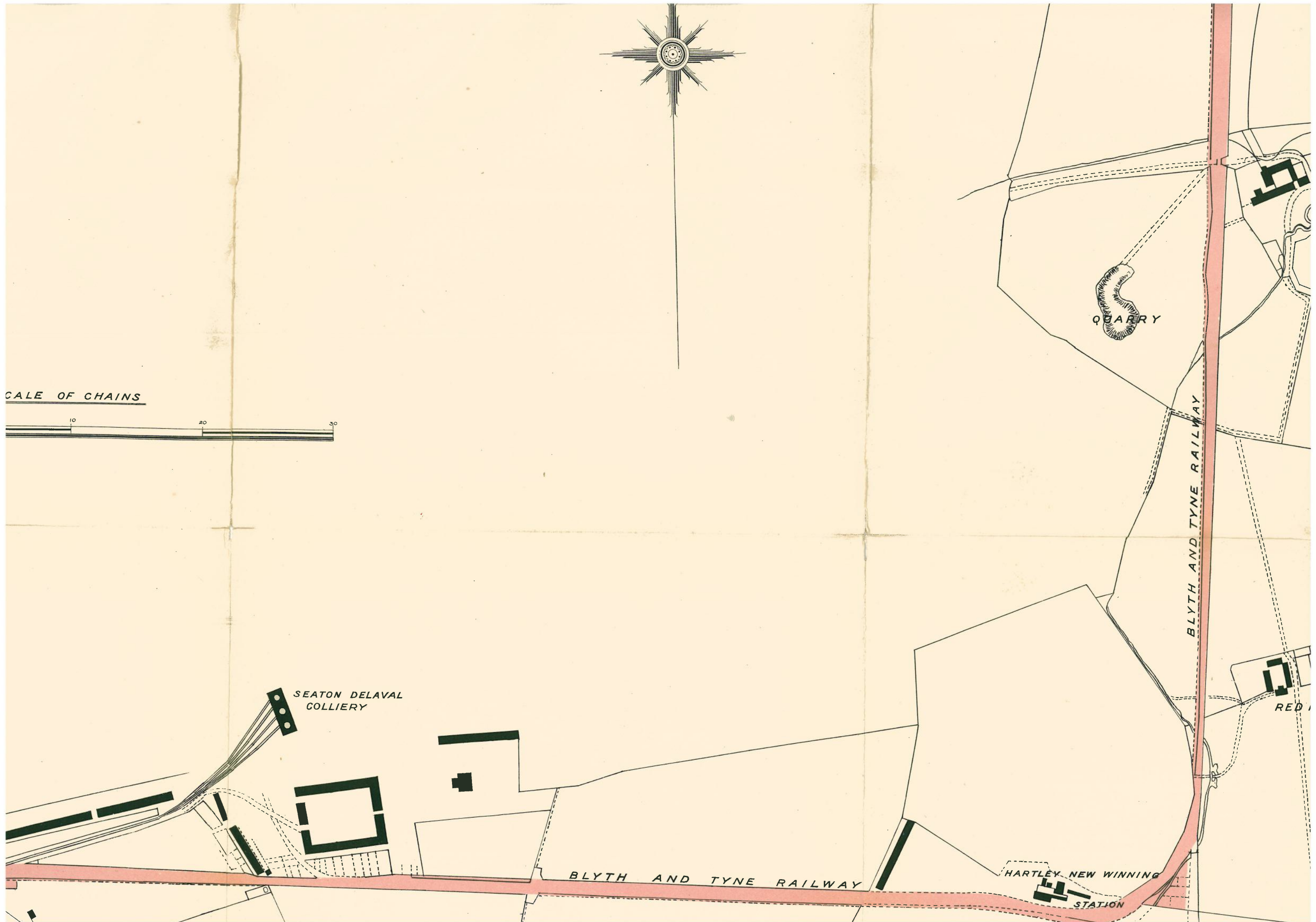
Lord Hastings

v.

North Eastern Railway Co.

Copy Plan referred to in Wayleave

Lease of 20th May, 1853.



No. 26.

Lord Hastings

v.

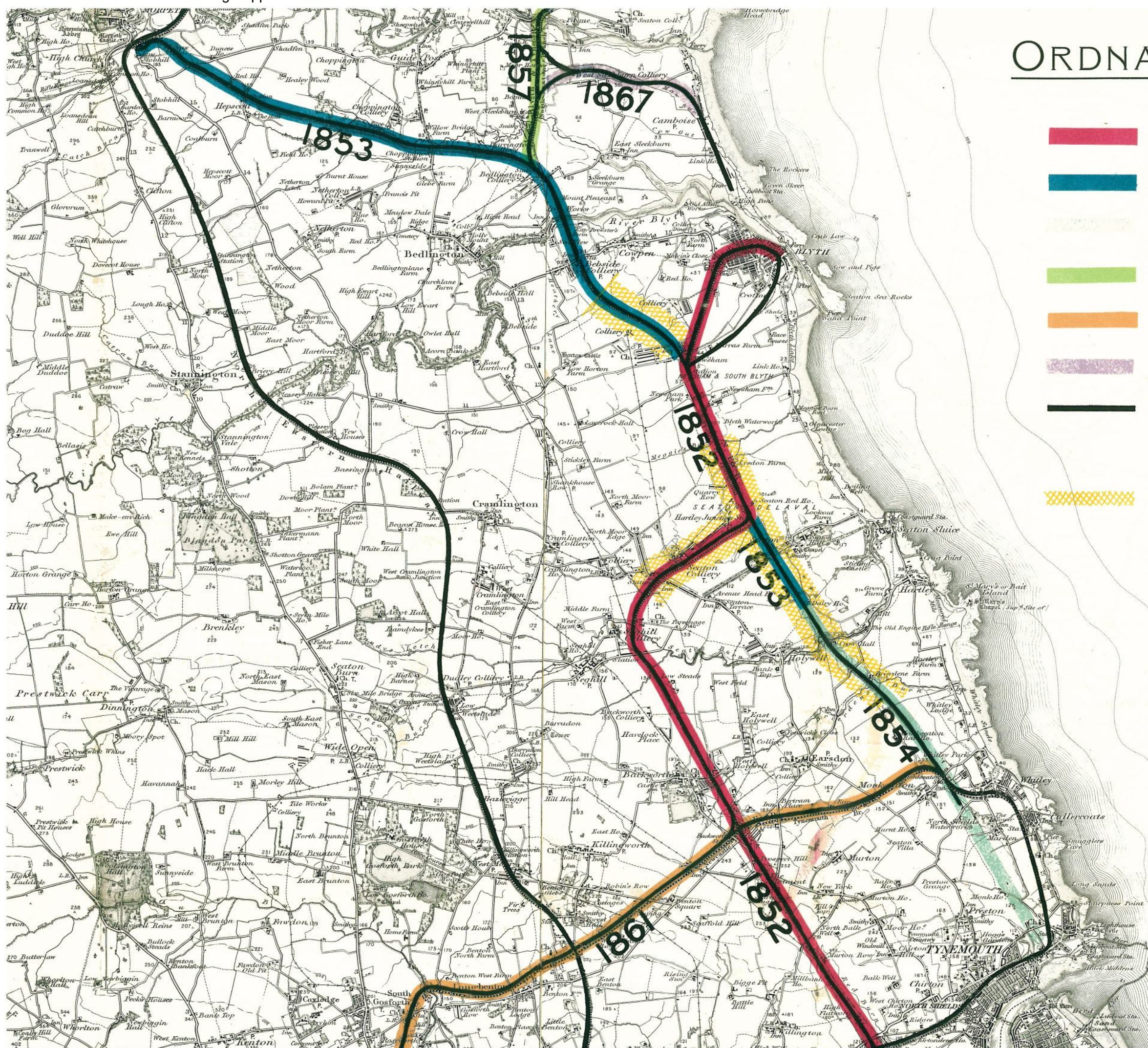
North Eastern Railway Co.

ORDNANCE MAP.

No. 26.

ORDNANCE MAP.

- Lines made before 1852.
- Lines authorised in 1853.
- " " 1854.
- " " 1857.
- " " 1861.
- " " 1867.
- Lines made by the N. E. R. Co. or their predecessors other than the Blyth and Tyne Co.
- Lord Hastings' Estate.



Sy.M.XI.IIA pg 1

[illegible]

Sy. M. XI 11^A pg 2

Or

along

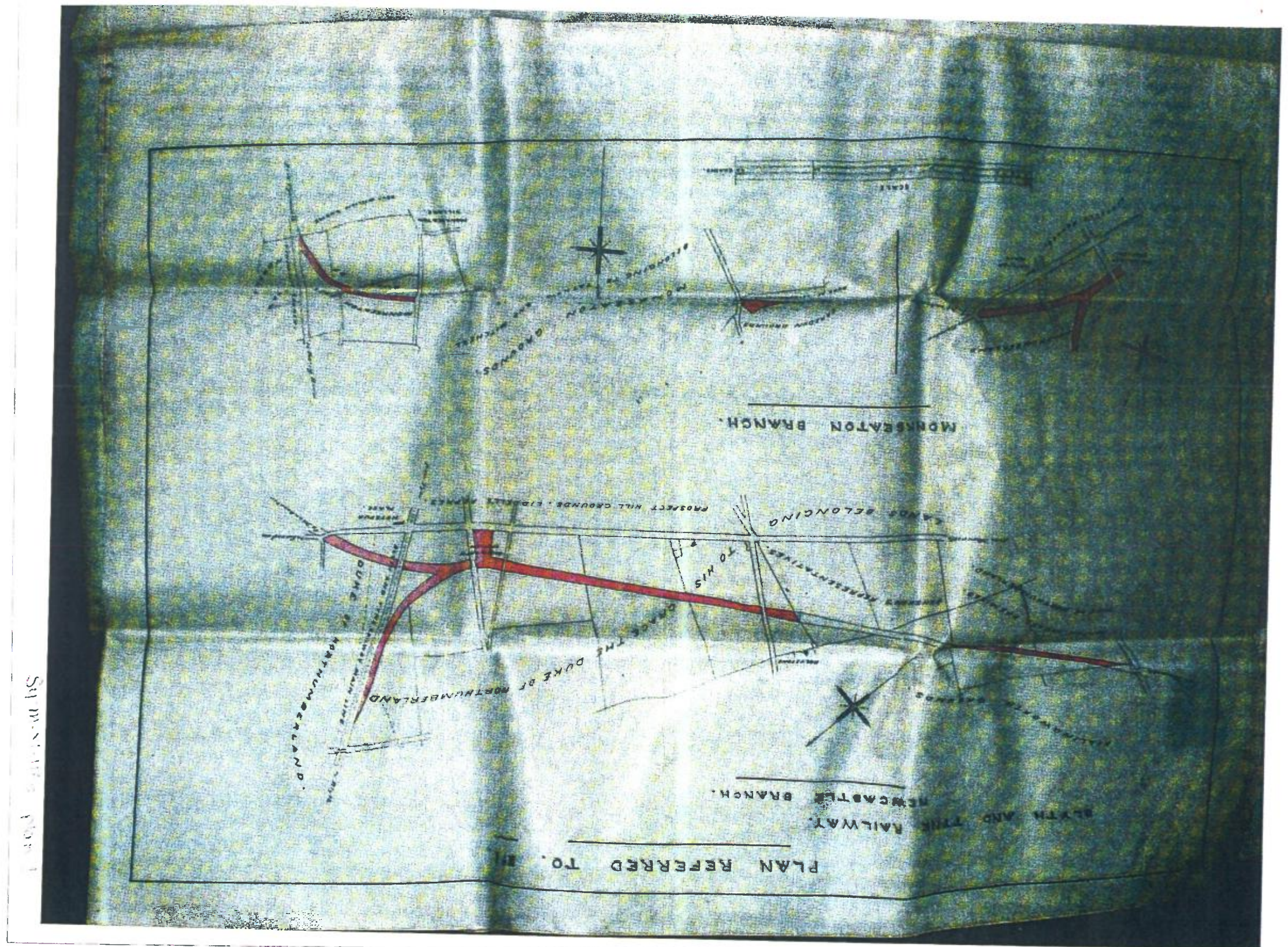
the said Branch Railways or any part thereof and in respect of which identical loads like bulm or binders there shall not for the term being be payable to the said Duke his heirs assigns or assigns in estate or any of them for passing over or along the said Blyth and Tyne Railway or any part thereof 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 the said George Duke of Northumberland or his predecessor Algernon late Duke of Northumberland 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 loads like bulm and binders which shall so pass in each year up to and not exceeding in the aggregate in each year fifteen thousand tens of such other loads like bulm and binders the rent or sum of Five shillings per Ten and if in the same year more than fifteen thousand tens of such ^{other} loads like bulm and binders shall so pass then for every such additional Ten which shall so pass in the same year in excess of such fifteen thousand tens up to and not exceeding Ten thousand such Tens in excess as aforesaid the rent or sum of Two shillings and sixpence per Ten and if in the same year more than Ten thousand 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 Ten thousand Tens the rents or sums following that is to say for every such Ten of large or round loads and of like bulm and binders the rent or sum of One shilling and for every such Ten of small loads the rent or sum of Sixpence and all the rents or sums reserved by these presents shall be payable and paid half yearly on the twenty ninth day of September and the twenty fifth day of March in each year and the yearly payment in each year shall be made on the twenty ninth 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 respect of the whole of each year shall be made on the twenty fifth 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 fifteen thousand Tens of such other loads like bulm and binders shall so pass it shall be ascertained how many Tens of small loads were comprised in the said fifteen thousand Tens which shall so pass in that year and how many Tens of small loads were comprised in the said Tens in excess of fifteen thousand Tens up to and not exceeding Ten thousand Tens so in excess and a return of One shilling and three pence for or in respect of every Ten of small loads so to be ascertained shall be made or allowed to the holder of the rents or sums payable in respect of that year for the said Tens in excess of the said fifteen thousand Tens up to and not exceeding Ten thousand Tens so in excess but such return shall not be made or allowed out of the rents or sums payable for the said fifteen thousand Tens nor out of the rents or sums payable for the said Tens beyond Ten thousand Tens so in excess being hereby expressly agreed and declared that if the rents or sums payable in that year for the said Tens in excess of the said fifteen thousand Tens up to and not exceeding Ten thousand Tens so in excess shall not in the aggregate be of sufficient amount to provide such return in full then 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 rents or sums payable in that year for the said Tens in excess of the said fifteen thousand Tens up to and not exceeding Ten thousand Tens so in excess and if in any year there shall not be any such Tens in excess of such fifteen thousand Tens then no such return as aforesaid shall in that or any other year be made for or in respect of that year and for the purposes of these presents large or round loads shall be taken to mean all loads that will not pass through a screen the wires of which are not more than five eighths of an inch apart and small loads shall be taken to mean all loads that will pass through such screen And also **Loading and Paying** yearly and every year during the said term in respect of Passengers, cattle and goods other than coal like bulm and binders 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 a twenty fifth day of March in which year the rents or sums payable by the company or their assigns as aforesaid in respect of loads like bulm or binders 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 due to the Northward of the River Blyth amount to Five hundred pounds or upwards the rent of One shilling the same to be paid on the twenty fifth day of March in each year and for every year ending with a twenty fifth 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 loads like bulm and binders shall not amount to Five hundred pounds a rent or sum equal to Two per centum of the gross amount payable to or charged by the 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 loads like bulm or binders) the same to be paid on such twenty fifth day of March and it being agreed that the company and their assigns shall in all cases take a money consideration and nothing for the passing and conveyance over and along the said Branch Railways or any part thereof of Passengers cattle and goods **Provided always** that if any loads like bulm or binders being or arising in or from any of the lands edged round with a fence situate within the

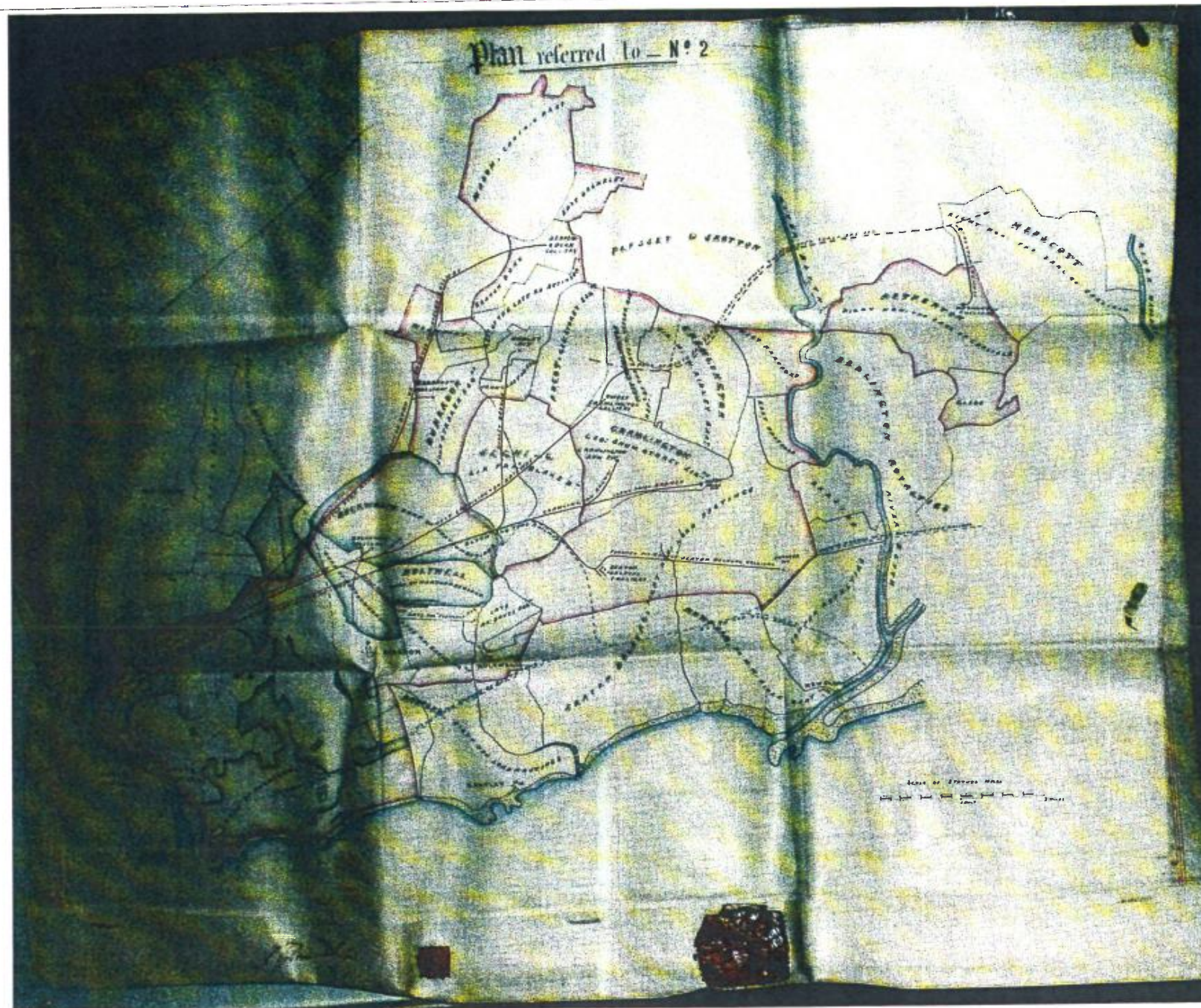
EXHIBIT 113

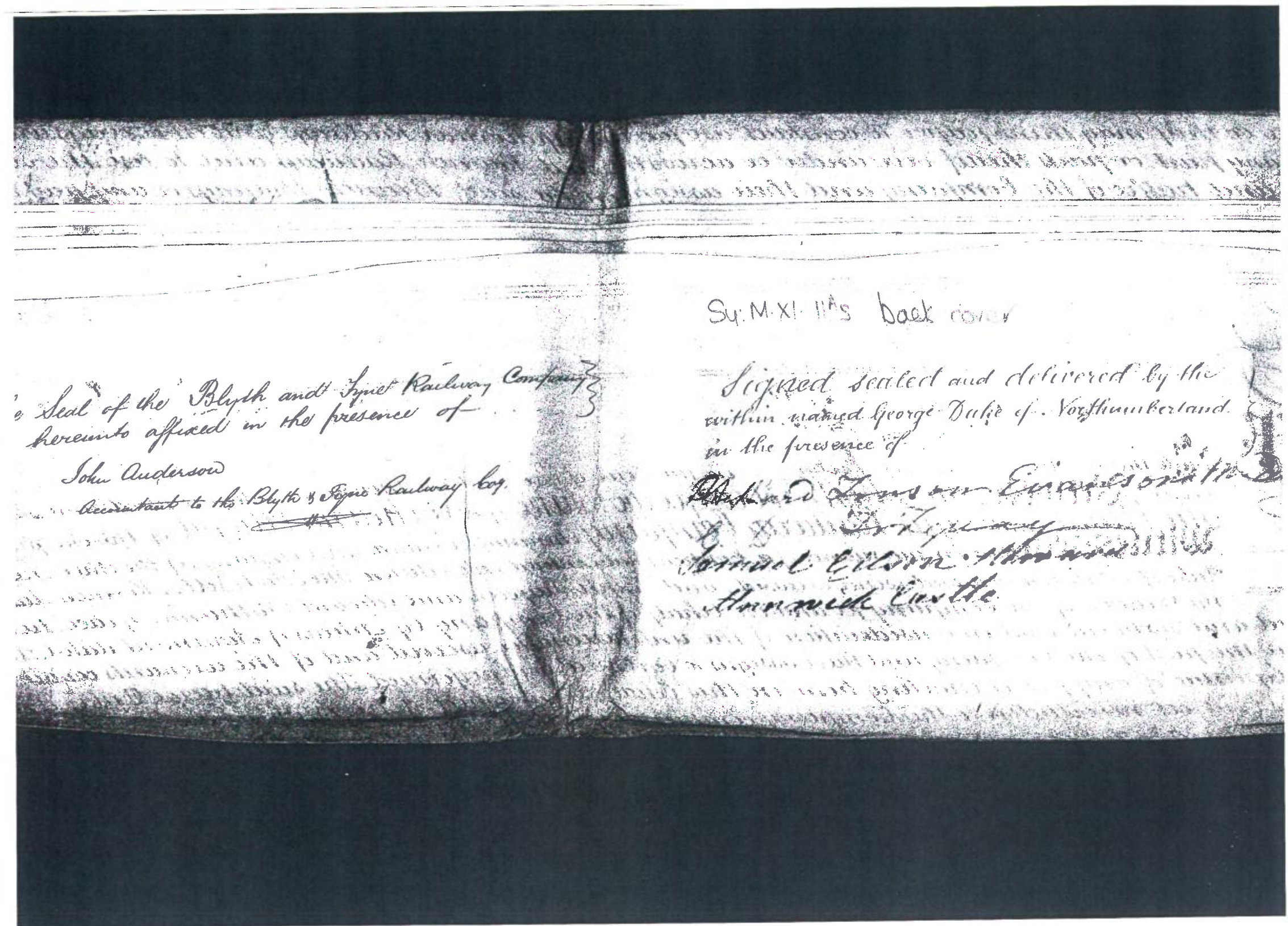
These Presents

shall be the company 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 loads loco bulm and binders which are intended to be hereby described as the 'Extra' loads loco bulm and binders herebefore referred to shall never be included in or form part of the before mentioned quantity of fifteen thousand tons or of the said other quantities in excess thereof but five shillings per ton shall always be payable in respect of such Extra loads loco bulm and binders **Provided further** that if it shall happen that a Wayleave rent less than five shillings per ton would have been payable to the said Duke his heirs assigns or sequels in Estate in respect of any part of such Extra loads loco bulm or binders if the same had been conveyed by and had been loads or loco bulm or binders usually conveyed by the Wayleave Railway or Tramway in use nearest to the place whence such part of such Extra loads loco bulm or binders 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 loads loco bulm or binders in lieu of five shillings per ton 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 ton as shall be equal to the Wayleave rent which he or they would have been entitled to if such identical Extra loads loco bulm or binders had been actually conveyed by and had been loads loco bulm or binders usually conveyed by such Wayleave Railway or Tramway in use nearest as 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 loads loco bulm or binders five shillings per ton shall be and continue to be payable and paid as aforesaid **Provided also** that in 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 the said days for payment thereof and for ten days after the same shall during or after such forty days have been legally demanded then and in any such case the said Duke his heirs assigns or sequels in Estate may enter upon the said Branch Railways and any other Railway or Railways and any lands and buildings for the time being occupied or used by the company or their assigns and distrain all or any of the loads belonging to the company or their assigns that shall be found thereon and also the horses locomotive and other Engines Machines Wagons Carriages Ropes Rollers and other implements and things which shall be in or upon the said Branch Railways and other Railway or Railways lands and buildings respectively and which of 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 satisfaction and may pay the rents or sums so in arrear and also the reasonable costs and charges of such distresses and sales rendering the same in full demand unto the company or their assigns **Provided also** that if the said rents or sums hereby reserved 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 next 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 entry under this proviso the said Duke his heirs assigns or sequels in Estate if he or they shall think fit so to do may enter upon the said Branch Railways and other the premises hereby granted or intended so to be or holden or enjoyed by virtue of these Presents or any part thereof in the name of the whole may reenter and the same thereafter may repossess and enjoy and the rents issues and profits thereof may take and retain for his and 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 reentry and 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 Railways and premises and every part thereof **And** the 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 several rents and sums of money reserved by any other wayleave lease or agreement for the time being subsisting already executed by the said George Duke of Northumberland or Algernon late Duke of Northumberland as aforesaid subject to such return from time to time (if any) as herebefore mentioned on or at the several days or times and in the manner herein appointed for payment thereof respectively without any deduction or abatement whatsoever on account of any present or future landlords or tenants taxes rates assessments charges or payments whatsoever (the land tax and landlords property or Income Tax on the said rents or sums only excepted) or on any other account whatsoever and will so pay the same 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 if present and future landlords and tenants taxes rates assessments charges and payments whatsoever for or in respect of the said premises herebefore granted or the said rents or sums or any of them or any part thereof respectively (Land tax and Landlords Property 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 loads loco bulm binders (wattle) and goods as the said Duke his heirs assigns or sequels in Estate or any other party or parties whatsoever shall bring

Once or times 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 loads like but not binders butle and goods as the Company or their assigns shall from time to time be entitled to charge for the same such charge being only impartially made so as not to exceed the charge for like articles passing along the lines under 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 every month during the said term hereby granted make and deliver unto the said Duke his heirs assigns or assigns in Estate or his or their Agent or Agents (if thereunto 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 loads like butle butle binders Passengers butle and goods as shall during such month have been carried and conveyed along the said Branch Railways or any part thereof And further that the said Duke his heirs assigns and assigns in Estate and his and their Agent or Agents from time to time and at all times during the said term hereby granted may have full 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 Papers or Documents Books of Presentment and loadings of loads like butle and binders and all other Books and Accounts relating to the said Branch Railways like butle and binders and the conveyance of Passengers butle and goods over and along the said Branch Railways or any part thereof And also that the said Duke his heirs assigns and assigns 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 Stations to take an Account in writing of all the quantities of loads like butle and binders 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 assigns in Estate and assigns in Estate and assigns in Estate with the Company and their assigns paying the several rents or sums hereinafter reserved and observing and performing the several covenants conditions and agreements therein contained and on their part to be observed and performed may peaceably and quietly lawfully hold use occupy possess and enjoy all and every the liberties privileges franchises and promises hereby granted 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 Duke his heirs assigns or assigns in Estate or any person or persons lawfully claiming or to claim by or under him or any of them Provided always that the expression the "assigns" of the Company wherever in these Presents contained shall in the event of the Company being dissolved and re-incorporated by the same or any other name include or extend or relate to the Company re-incorporated by such re-incorporation And the said Duke so far as relates to the acts and defaults of himself his heirs assigns and assigns 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 and their assigns covenant with the said Duke his heirs assigns and assigns in Estate that all the clauses and provisions whatsoever of The Railways Clauses Consolidation Act 1845 which are incorporated with the Blyth and Tyne Railway Amendment Act 1861 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 provisions operate and enure to the benefit of the said Duke his heirs assigns and assigns in Estate and the Company and their assigns and all other parties 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 made or authorised 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 said term hereby granted be maintained and kept open for public use and worked with a due regard to the interests of the Public according to those clauses and provisions and the provisions of the Acts of the Company And also that if and so often as any dispute or difference shall at any time or times hereafter arise between the said Duke his heirs assigns or assigns 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 covenants conditions 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 be referred and submitted to Arbitration and shall be determined by Arbitration according to the clauses and provisions in that behalf of the said Duke his heirs assigns and assigns in Estate and the Company and their assigns shall accordingly be deemed to be







Transcript of Wayleave dated 30 July 1867

Page 1

This Indenture made the 30th day of July in the year of our Lord one thousand eight hundred and sixty seven between the Most Noble 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 pursuance of a contract duly entered into between the Most Noble Algernon Late Duke of Northumberland (since deceased) and Joseph Laycock and Edward Nathaniel Grace two of the directors of the Company for and on behalf of the Company by Articles of Agreement dated the first day of May 1861 and in consideration of the rents hereinafter reserved and of the covenants conditions and agreements hereinafter contained and on the part of the Company and their assigns to be observed and performed the said George Duke of Northumberland by these present as well as 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 *[indistinguishable]* for all buildings which may be required to be taken or injuriously affected by the Company) full wayleave *[indistinguishable]* right of way and liberty power and authority to and for the Company and their assigns to make and construct so much and such part of the Railways and Works as are to pass through the lands and grounds of the said Duke and are comprised in the following description in the Blyth and Tyne Railway Amendment Act 1861 A Railway commencing by a junction with the Main Line of the Blyth and Tyne Railway at a point thereon in the Township of Backworth in the parish of Easton and terminating in or near a street or place called Picton Place in the parochial chapelry of St Andrew in the parish of St Nicholson in the Borough and County of Newcastle upon Tyne – A Railway commencing by a junction with such last mentioned intended Railway in the Township of Monkseaton in the parish of Tynemouth in the County of Northumberland and terminating by a junction with the Tynemouth Extension of the said Blyth and Tyne Railway in the said township of Monkseaton and parish of Tynemouth in the said County of Northumberland (and which said parts of the said Railways and Works as are to pass through the lands and grounds of the said Duke are hereinafter 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 Amendment Act 1861" but so that the Company or their 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 present without the consent of the said Duke, his heirs, 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 plan *[indistinguishable]* before mentioned and the Company or their assigns 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 present and to enter upon and use and from time to time to amend and repair the said Branch Railways in the usual manner in through over and along the said lands and grounds of the said Duke upon which the said Branch Railways shall be so constructed for the leading conveying and carrying with engines, wagons, wains, trucks and other carriages over and along the said Branch Railways of coals coke culm cinders cattle and other goods unto any place or places whatsoever and also for leading, conveying and carrying of Carriages and Passengers (except and always reserved forth and out of this present demise as part of the compensation for the Wayleave rights powers and privileges hereby *[demised]* or intended so to be full and free liberty license and power for the said Duke his heirs assigns and sequels in estate and his and their *[agents workmen]* and servants from time to time and 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 or any part or parts thereof over under or across the said Branch Railways and to use the same respectively so always that the wagons and traffic of

the company and their assigns on the said Branch Railways or any part thereof be not thereby [*indistinguishable*] hindered and so always that the interests of the public be not thereby [*indistinguishable*] affected) to have and to hold the said wayleave liberties privilege and authorities and all singular [*other*] the premises hereby granted or expressed or intended so to be unto the company and their assign for the term of one thousand years to be computed from the 25th day of March 1862 and thenceforth next [*ensuring*] 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 25th day of March) as follows that is to say for all coals coke culm and cinders hereinafter described as "the Extra Coals 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 respect of which identical Extra Coal Coke Culm and Cinders these 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 through any of his or their land other than the Blyth and Tyne Railway or any part thereof and other than the said Branch Railways or any part thereof the rent or sum [*indistinguishable*] per ten (each ten being calculated for the purpose of these Presents as consisting of 17½ of [*indistinguishable*] and for all the coals cokes culm and cinders which shall during each year of the said term hereby granted pass over

Page 2

Or along the said Branch Railways or any part thereof and in respect of which identical 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 the said George Duke of Northumberland or his predecessor Algernon Late Duke of Northumberland 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 tons of such other Coals Coke Culm and Cinders for rent or sum of 5 shillings per ton and if in the same year more than 15,000 tons of such other Coals Coke Culm and Cinders shall so pass then for every such additional ton which shall so pass in the same year in excess of such 15,000 tons up to and not exceeding 10,000 such tons in excess as aforesaid with a rent or sum of 2 shillings and sixpence per ton and if in the same year more than 10,000 additional tons in excess of aforesaid shall so pass then for every such ton which shall so pass in the same year in excess of such 10,000 tons the rents or sums following that is to say that for every such ton of large or round Coals and of Coke Culm and Cinders be the rent or sum of 1 shilling and for every such ton small coals the rent or sum of sixpence and all the rent or sums reserved by these Presents shall be payable and paid half yearly on the 29th day of September and the 25th day of March in each year and the first half yearly payment in each year shall be made on the 29th day of September for the number of tons as aforesaid which shall have so passed up to that day and the payment of the balance of such rents or sums due in respect of the whole of each year shall be made on the 25th 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 tonnes of such other Coals, Coke, Culm and Cinders shall so pass it shall be ascertained how many tonnes of small coals were comprised in the said 15,000 tonnes which shall so pass in that year and how many tonnes of small coals were comprised in the said tonnes in excess of 15,000 tonnes up to and not exceeding 10,000 tonnes so in excess and a return of one shilling and three pence for or in respect of every tonne of small coals so to be ascertained shall be made or allowed to the Company out of the rents or sums payable in respect of that year for the said tonnes in excess of the said 15,000 tonnes up to and not exceeding 10,000 tonnes so in excess but such [*when*]

shall not be made or allowed out of the rents or sums payable for the said 15,000 tonnes not out of the rents or sums payable for any such tonnes beyond 10,000 tonnes so in excess it being hereby expressly agreed and declared that if the rents or sums payable in that year for the said tonnes in excess of the said 15,000 tonnes up to and not exceeding 10,000 tonnes so in excess shall not in the aggregate be a 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 rents or sums payable in that year for the said tonnes in excess of the said 15,000 tonnes up to and not exceeding 10,000 tonnes so in excess and if in any year there shall not be any such tonnes in excess of such 15,000 tonnes then no such return as aforesaid shall in that or any other year be made for or in respect of that year and for the purposes 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 5/8 of an inch apart and small coals shall be taken to mean all coals that shall 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 Coal, 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 a 25th day of March in which year the rents or sums payable by the Company or their assigns as aforesaid in respect of Coals, Coke, Culm or 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 of the rent of one shilling the same to be paid on the 25th day of March in each year and for every year ending with the 25th 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 two per centum of the gross amount payable to or charged by the 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 or Cinders) the same to be paid on such 25th day of March and it being agreed that the 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 Branch Railways or any part thereof of Passengers, Cattle and Goods provided always that if any Coals, Coke, Culm or Cinders is being or arising in or from any of the lands edged round with a pink colour on the plan [*indistinguishable*]

Page 3

these present 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" hereinafter referred to shall never be included in or form part of the before mentioned quantity of 15,000 tonnes or of the said other quantities in excess thereof but five shillings per ton shall always be payable in respect of such extra Coals, Coke, Culm and Cinders provided further that if it shall happen at a wayleave rent less than five shillings per ton would have been payable to the said Duke his heirs assigns or sequels in Estate in respect of any part of such extra Coals, Coke, Culm or Cinders if the same had been conveyed by and had been coals, coke, culm or cinders usually conveyed by the wayleave railway or tramway in use nearest to the place when such part of such extra coals, coke, culm or cinders shall arise and passing over or through any of the land of the said Duke, his heirs, assigns or sequels of the 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 or Cinders in lieu of [*five*] shillings per ton there shall be payable and paid by the said Company to the said Duke, his heirs, assigns or sequels in Estate in respect of thereof such an amount per ton as shall be equal to the wayleave rent which you 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 wayleave, railway or tramway in use nearest as 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 or cinders five shillings per ton shall be and continue to be payable and paid as aforesaid provided also that in case the said rents or said sums hereby reserved or made payable or any of them or any part thereof respectively shall be behind or unpaid for 40 days next after any of the said days for payment thereof and for 10 days after the same shall during or after such 40 days have been legally demanded then and in every such case the said Duke and his heirs, assigns or sequels in Estate may enter upon the said Branch Railways and any other railway or railways and any lands and buildings for the time being occupied or used by the Company or their assigns and [*distrain*] or any of the coals belonging to the Company or their assigns that shall be found thereon and also the horses, locomotives and other engines, machines wagons carriages ropes rollers and other matters and things 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 convey away and sell and dispose of in order to satisfy and pay the rents or sums so in arrears 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 [*indistinguishable*] 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 the 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 into and upon the said Branch Railways and other the premises hereby granted or intended so to be or holden or enjoyed by virtue of these Presents of 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 or otherwise he or they shall be fully repaid all such rents or sums so in arrears 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 non-payment re-entry and repossession or incidental thereto nevertheless be 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 Railways the premises and every part thereof –and the Company do hereby for themselves and their assigns covenant with the said Duke his heirs assigns and sequels in Estate that the Company and the 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 several rents and sums of money reserved by any other wayleave lease or agreement for the time being subsisting already executed by the said George Duke of Northumberland or Algernon late Duke of Northumberland as aforesaid subject to such return from time to time (if any) as hereinbefore mentioned on or at the several days or times and in the manner herein appointed for payment thereof respectively without any deduction or abatement whatsoever on account of any present or future landlords or tenants taxes rates assessments charges or payments whatsoever (for the land tax and landlord's profits or income tax from the said rents or sums only accepted) or on any other account whatsoever and will so pay the same according to the [*will*] intent and meaning of these present 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, assessments charges and payments whatsoever for or in respect of the said premises hereinafter granted for the said rents or sums or any of them or any part thereof respectively (land) tax and landlord's property tax income tax on the said rents or sums only excepted and also will from time to time during the term hereby granted lead and [*cover*] 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 whosoever shall at any

Page 4

time or times during the said term require to be led or carried away but nevertheless only on payment with a Company or their assigns of such dues and charges for the same Coals 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 in only impartially made so as not to exceed the charge for like articles passing along the lines under 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 every month during the said term hereby granted make and deliver unto the said Duke and his heirs assigns or sequels in Estate or his or their agent or agents (if thereunto required by him or them) a time and perfect account in writing under the hands of two of the Directors of the Company or their assigns of all such Coals Coke Culm Cinders Passengers Cattle and Goods as shall during such 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 and 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 take copies of the whole or any part of the [viewers or [indistinguishable] Books of Presentment and [leadings] of Coals Coke Culm and Cinders and all other Books and Accounts relating to getting and leading of Coal 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 and his heirs assigns and 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 [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 parts 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 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 liberties privileges powers authorities and premises hereby granted 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 Duke his heirs assigns or sequels in Estate 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 Company wherever in these Presents contained shall include or extend hereafter to every 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 incorporated by the same or any other name include or extend or relate to the company constituted by such [incorporation] 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 and 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 Consolidation Act 1845" which are incorporated with the "Blyth and Tyne Railway Amendment Act 1861" shall accept only so far as the same respectively may be [repugnant to] 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 inure to the benefit of the said Duke his heirs assigns and sequels in Estate and the Company and their assigns and all other parties whomsoever as fully and effectively to all intents and purposes whatsoever as if the Company had taken and acquired the said land on which the said branch railways are made or authorised to be made it in the intent and meaning of the said parties hereto that the

said Branch Railways shall at all times during the said term hereby granted be maintained and kept open for the public use and worked with a due regard to interests of the public [as] according to those clauses and provisions and the provisions of the acts of the Company And also that if and so often as any dispute or difference shall at any time or times hereafter arise between the said Duke 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 covenants conditions 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 be reduced into [indistinguishable]

Taken from handwritten transcript submitted to Land Registry in respect of title number TY404513:

...writing and submitted to Arbitration according to the Clauses and provisions in that behalf of the Lands Clauses Consolidation Act 1945 and those Clauses and Provisions shall accordingly be deemed to be part of these Presents In witness whereof the said Duke hath hereunto set his hand and seal and the said Company have hereunto affixed their Common Seal the day and year first above written

4099 F.

Julia Robson

From: Alannah Healey <Alannah.Healey@slcproperty.co.uk>
Sent: 25 November 2020 09:01
To: Foy, Dominic; Pacey, Phil; Russell Mills; Julia Robson; Colin Barnes
Subject: Northumberland Park meeting- agenda
Attachments: 201124 Agenda for Meeting with Northumbelrand Estates.docx; 60601435-ACM-01-PL-DRG-ECV-000001.pdf; 60601435-ACM-01-PL-DRG-ECV-000002.pdf; 60601435-ACM-01-PL-DRG-ECV-000003.pdf; 60601435-ACM-01-PL-DRG-ECV-000004.pdf

Good morning all,

In advance of this afternoons meeting, please find the agenda attached and plans of the proposed works at Northumberland Park. Please note, these are draft plans only and are subject to change.

Any questions or queries, please do not hesitate to get in touch.

Kind Regards

Alannah Healey BA MSc
Planner

 01912092564/07516727965  www.slcproperty.co.uk  **SLC Property**



Sable Leigh Property Limited is a limited company registered in England and Wales. Registered number: 10487342.
Registered office: One Eleven Edmund Street, Birmingham, B3 2HJ. The content of this email and any attachment transmitted with it is confidential. It may also be legally privileged or otherwise protected from disclosure. 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. 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.

Please consider the environment before printing this e-mail.

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in Software as a Service (SaaS) for business. Providing a **safer** and **more useful** place for your human generated data. Specializing in; Security, archiving and compliance. To find out more [Click Here](#).



Northumberland Line scheme-meeting with Northumberland Estates

25th November, 15.00-16.30

Attendees:

SLC Property	Russell Mills, Alannah Healey
Northumberland Estates	Colin Barnes, Julia Robson
AECOM	Phil Pacey, Dominic Foy

Agenda

1. Introductions
2. Introduction to the scheme (AECOM)
3. Summary of temporary land requirements (SLC)
4. Future Interface Requirements
5. AOB



From: Julia Robson <julia.robson@northumberlandstates.co.uk>
Sent: 14 December 2020 16:36
To: Russell Mills <russell.mills@slcproperty.co.uk>
Cc: Rory Wilson <Rory.Wilson@northumberlandstates.co.uk>; Jen Cuthbert
<Jen.Cuthbert@northumberlandstates.co.uk>
Subject: Northumberland Line Project, Public Consultation - potential impacts upon Northumberland Estates Land.

Dear Russell

Northumberland Line Project, Public Consultation - potential impacts upon Northumberland Estates Land.

Further to my email of the 9th December a copy of which is attached I confirm I have had a look through the plans which were supplied and discussed your proposals with our CEO.

I would like to start by confirming that the Northumberland Estates in principle is supportive of the railway scheme which is proposed to be implemented but realise that there is considerable work to be carried out in negotiating matters and issues that need to be resolved.

Regarding the plans forwarded to the estate the following are my comments:

000307 Part High Farm Backworth:

Temporary Lane use and haul road - we believe we can provide a larger area and access beneath the A19 to provide a more direct route to the rail line for works

000314 Land Lying to West of Station Road:

1) You have identified permanent land use but have not provided any details of what the land will be used for this needs to be supplied – what will be the effects on our adjoining development land be can this area be utilised as part of a pedestrian infrastructure scheme to provide access from land currently undeveloped to the west which will shortly be developed ?

2) You have identified temporary land use at the Bridge at Algernon Terrace – we need clarity on ownership, liabilities, indemnities etc if there is not sufficient clarity on this point permission will not be provided and access not permitted we are seeking the position of Nexus on this point.

000316 The former Blyth and Tyne Line adjoining land at Moor Edge Farm:

Temporary Land Use - This is possible but we believe we can provide better access to the site from the north

000320 Land at East of Backworth:

Temporary Land use We object to access being taken for a haul road over the estate land at this location and have an alternative proposal

000321 Land at East Backworth:

Extinguishment of Rights – The estate have previously discussed the extinguishment of rights for crossing the rail line with network rail (Summer 2020) the Estate are not prepared to give up their rights we need to retain our rights of crossing the rail line.

000322 Land at Moor Edge Farm Earsdon:

Temporary Land Use - The estate do not want to make this land available for either a haul road or temporary land use we can provide alternative land with better access and which is brown field without damaging this agricultural land

000325 Land at Middle Farm, Backworth, Newcastle Upon Tyne:

Temporary Land use – Proposed Haul Road - whilst this does have PROW status the estate tenant has maintained the road it is imperative that the road is not damaged and that it is left in a satisfactory condition - this will also affect the tenants business - claims will have to be submitted to deal with this issue

000327 Land Lying to the west of West Farm, East Holywell, Newcastle Upon Tyne:

Temporary Land use and proposed haul road - The freehold of the land to the east of the line was conveyed in 2014 to SITA

000435 Land at High Farm Backworth, Newcastle Upon Tyne:

Temporary land use including haul road see comments re 000307

000439 Land at Station Road Backworth Newcastle Upon Tyne :

Permanent and Temporary Land use see comments re 000314 points 1 and 2

000440 Land at Fisher Road Backworth, Newcastle Upon Tyne:

Extinguishment of Rights – comments remain as in 000321 – The Estate are not prepared to extinguish their rights across the railway as discussed and agreed with Network Rail in Summer 2020

000441 Land at Fisher Road Backworth, Newcastle Upon Tyne:

Temporary Land Use - as per comments re 000325 Proposed Haul Road - whilst this does have PROW status the estate tenant has maintained the road it is imperative that the road is not damaged and that it is left in a satisfactory condition - this will also affect the tenants business - claims will have to be submitted to deal with this issue

000463 Moor Edge Farm, Earsdon:

Temporary Land use – no comment

Matters that will need to be resolved include:

- 1) Updating of the wayleave agreement for the Blyth and Tyne Railway line and potential payments
- 2) Clarity over maintenance liability and ownership of the bridge at Algernon Terrace there is a presumption that this is managed and maintained by Nexus but we are seeking clarity on this dependant upon the response we could have issues over works and the scheme
- 3) A Joined up approach to pedestrian infrastructure is required between the Estates Land to the west of the proposed permanent land take illustrated on 000314 and 000439 and the transport network and retail centre which the estate need to approve
- 4) Indemnity

Proposed alternatives

I have attached a PDF with two plans the first illustrates land that could be made available in the area of 000307 & 000435 Land at High Farm Backworth - we would be able to provide access under the A19 and a route through to the Rail line which would probably be easier to navigate rather than the alternative

The second plan illustrates land we would rather have used and is Brown field land with good access rather than installing a lengthy haul road as illustrated on 000320 & 000322 the use of this land could also reduce the requirement to use other sites identified further south. This land is well drained rather than the land to the east of the line

Further Proposal:

The Estate I believe will be taking back in hand the top two floors of the multi-story car park at Northumberland Park – this could be made available for site offices/ staff parking / compound etc

I would be grateful if you would acknowledge receipt of this email and consider the proposed alternative sites. Before progressing any agreement on the Algernon Bridge and the permanent land take additional information must be supplied.

Yours sincerely

Julia Robson

Julia Robson

From: Russell Mills <russell.mills@slcproperty.co.uk>
Sent: 19 April 2021 14:02
To: Julia Robson; Colin Barnes; Rory Wilson
Cc: Allen Creedy
Subject: Update meeting regarding Northumberland Line, 20th April 2021
Attachments: 60601435-ACM-XX-ZZ-DRG-LEP-000307.pdf; 60601435-ACM-XX-ZZ-DRG-LEP-000314.pdf; 60601435-ACM-XX-ZZ-DRG-LEP-000318.pdf; 60601435-ACM-XX-ZZ-DRG-LEP-000321.pdf; 60601435-ACM-XX-ZZ-DRG-LEP-000441-A3.pdf; 60601435-ACM-XX-ZZ-DRG-LEP-000468.pdf; Northumberland Estates - Meeting Minutes 15.01.21.dotx; 60601435-ACM-XX-ZZ-DRG-LEP-000316.pdf; NE Heads of Terms 19.04.21 .docx; NE Meeting Agenda 20.04.21.pdf

Dear Julia, Rory and Colin,

In advance of the meeting we have diarised for tomorrow, I attach an agenda for your reference.

I also wanted to provide a brief update which can help act as a prompt to our discussion:

Algernon Drive Bridge Adoption – We have discussed the adoption of this structure with North Tyneside Council and they have stated that they would consider the adoption of the bridge on its own merits but to date they have not received any enquiries from NE about adoption of the structure. That is also the case with the verge of the A186 required for the station emergency exit. However, as we are now proposing to undertake works to the verge to create a new path, we propose that a permanent acquisition of that land would be more appropriate.

Works at Northumberland Park Station – At our previous meeting, Rory stated your position that the Wayleave Lease for the relevant stretch of line would need to be varied to allow station works to take place. Pinsent Masons, NCC's legal advisor, have reviewed the relevant Wayleave Lease, dated 30 July 1867, and have recommended that the works proposed fall under the description of 'amending and repairing' the railway included in the original agreement. Our assumption therefore is that NCC would not need to vary the existing Wayleave lease but that we would clearly need certain rights from you to construct the station – i.e. rights to tie into Algernon Drive bridge etc (see Land & Works Agreement).

Holywell User Works Level Crossing – During our previous discussion you explained that your aspiration for value of rights at this LX is greater than offered by NR because you believe there to be bridging rights at that location. Pinsent Masons have undertaken a review of both the relevant wayleave lease and original authorising act and cannot find any reference to bridging rights in this location. However, as we would not be seeking to extinguish any rights that NE have for bridging over the line at Holywell, we hope that this would not prevent us from reaching an agreement regarding rights over the level crossing.

On a more general point, in order to move our discussions forward I have drafted a first attempt at Heads of Terms for a Land & Works Agreement between NE and NCC which formalises the arrangements for each of the land parcels and rights required by the scheme. As per the wording in the HoT's, we would very much like to reach a mutually agreeable position without the need to incur the time and financial burden of taking them through the Transport & Works Act Order process. I would welcome your comments on the draft HoT's.

I have also attached a copy of the minutes from our last meeting and we can run through the actions in addition to the items above.

I hope that this has been of use and look forward to speaking with you and the team tomorrow.

Kind Regards

Russell

Russell Mills MRICS

Senior Property Manager, North

 0121 285 2251  07384 832058  www.slcproperty.co.uk  [SLC Property](#)



Sable Leigh Property Limited is a limited company registered in England and Wales. Registered number: 10487342.
Registered office: One Eleven Edmund Street, Birmingham, B3 2HJ. The content of this email and any attachment transmitted with it is confidential. It may also be legally privileged or otherwise protected from disclosure. This email should not be used by anyone who is not a original intended recipient, nor may it be copied or disclosed to anyone who is not an original intended recipient. 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.

Please consider the environment before printing this e-mail.

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in Software as a Service (SaaS) for business. Providing a **safer** and **more useful** place for your human generated data. Specializing in; Security, archiving and compliance. To find out more [Click Here](#).



Minutes

Meeting name	Programme name	Attendees	Circulation list	Apologies
Meeting with Northumberland Estates	Northumberland Line	Allen Creedy (SLC) Russell Mills (SLC) Alannah Healey (SLC) Colin Barnes (Northumberland Estates) Julia Robson (Northumberland Estates) Rory Wilson (Northumberland Estates)		N/A
Subject Update meeting				
Meeting date 20/04/2021				
Time 10.00	Additional information N/A			
Venue TEAMS Meeting	Prepared by Alannah Healey			

Matters Noted

Ref	Matters	Actions noted	Due by	Responsibility
1	<p>Project update inc planning applications</p> <p>ARC provided an update on the status of the planning applications, including Northumberland Park which was submitted in February. ARC advised RFIs were received relating to details of the emergency access. ARC advised NTC are to re-consult on an additional plan this week. Determination is anticipated towards the end of May, subject to the recipe and resolution of all statutory consultation responses.</p> <p>ARC advised the Transport and Works Act Order is programmed to be submitted in the last week in May.</p> <p>RM advised another round Ground Investigations is currently programmed to commence in July, which is likely to be concentrated around NPark. Further information to be sent as soon as scope is available (in the next month or so)</p>	RM to provide scope of GI once available	Mid-May	RM
2	<p>Access to Northumberland Estates Land from platform</p> <p>CB queried if this could be a secondary emergency egress and that Northumberland Estates are keen to ensure option is explored to ensure proposed development is well connected to railway station.</p> <p>RM advised that there is likely to be a high cost involved in providing access to Northumberland Estates land directly to the platform due to the depth and incline of the bank. As such, RM indicated the connection is not part of the current project but that work to platform doesn't preclude connection to land owned by Estates land at a later date.</p>	RM to facilitate meeting with station design lead to discuss engineering	7 th May	RM

<HeaderText0>
<HeaderText1>

DRAFT

Ref	Matters	Actions noted	Due by	Responsibility
	RM provided reassurance that we would not interfere with these rights and are only seeking to extinguish rights at ground level over LXC.	CB to provide figure of financial compensation, if rights are required to be acquired.	30 th April	CB
	RM asked CB if bridging rights have been quantified financially at Holywell UWC and suggested that SLC broker a 3-way meeting including NR to agree a deal.	Following the above action, RM to arrange meeting with NR	7 th May	RM
5	Land and Works Agreement RM provided a draft Heads of Terms for a Land and Works Agreement between NE and NCC in advance of the meeting. Northumberland Estates to provide comments on the draft.	JR/CB to provide comments JR to provide comments on draft plans sent by RM	30 th April	JR/CB
8	AOB Next meeting to be arranged in 2 months.	RM to arrange date with Jen Cuthbert at NE	TBC	RM

|

From: Mike Robbins <Mike.Robbins@northumberland.gov.uk>
Sent: 26 May 2021 17:10
To: Rory Wilson <Rory.Wilson@northumberlandstates.co.uk>
Cc: Russell Mills <russell.mills@slcproperty.co.uk>
Subject: Northumberland Line Project - Wayleave Lease Payments

Dear Rory

I am writing to update you of Northumberland County Council's intention to include a provision in the forthcoming Transport & Works Act Order for the Northumberland Line Project that will remove Network Rail's obligation to pay rent under the relevant Wayleave Leases for the stretches of line owned by The Duke of Northumberland.

If you are familiar with the existing provisions, I'm sure you would agree that they are outdated and unclear in the context of the modern railway, so it's appropriate for them to be revoked and replaced with an entitlement to compensation.

We will be in touch in due course to discuss compensation and whether it is relevant to the stretches of line owned by The Duke of Northumberland.

I hope that this is clear – if you would like further information please do not hesitate to contact me.

Regards

Mike Robbins MRICS

Strategic Estates Manager

Strategic Estates
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

Tel 07979 273895

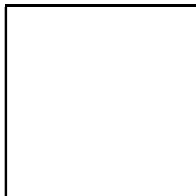
EMail Mike.Robbins@northumberland.gov.uk

Website: www.northumberland.gov.uk

Save Time Do It Online!

We have made a few key improvements to our site to make our services easy to access. Now you can do everything from paying your council tax, to reporting a faulty street light online. Go to: www.northumberland.gov.uk and click 'pay, apply or report' to access the relevant forms.

This email is intended solely for the individual or individuals to whom it is addressed, and may contain confidential and/or privileged material. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this email is prohibited. If you receive this email in error, please contact the sender and delete the email from any computer. All email communication may be subject to recording and/or monitoring in accordance with internal policy and relevant legislation.



Save Time Do It Online!

We have made a few key improvements to our site to make our services easy to access. Now you can do everything from paying your council tax, to reporting a faulty street light online. Go to: www.northumberland.gov.uk and click 'pay, apply or report' to access the relevant forms.

This email is intended solely for the individual or individuals to whom it is addressed, and may contain confidential and/or privileged material. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this email is prohibited. If you receive this email in error, please contact the sender and delete the email from any computer. All email communication may be subject to recording and/or monitoring in accordance with internal policy and relevant legislation.

E-mails cannot be guaranteed to be secure or free of errors or viruses. The sender does not accept any liability or responsibility for any interception, destruction, loss, late arrival or incompleteness of or tampering or interference with any of the information contained in this e-mail or for its incorrect non-delivery for whatsoever reason or for its effect on any electronic device of the receipt. If verification of this e-mail or any attachment is required a hard-copy version.

From: Rory Wilson <Rory.Wilson@northumberlandstates.co.uk>

Date: 28 May 2021 at 10:09:00 BST

To: Mike Robbins <mike.robbsins@northumberland.gov.uk>

Cc: Russell Mills <russell.mills@slcproperty.co.uk>, Andrew Robson

<Andrew.Robson@northumberlandstates.co.uk>, Julia Robson

<Julia.Robson@northumberlandstates.co.uk>

Subject: RE: Northumberland Line Project - Wayleave Lease Payments

Dear Mike,

Thank you for the below, I am very familiar with the existing provisions and find them while from the 1800's to be perfectly acceptable.

I would like to understand your intentions

-Are you suggesting a review of the terms and payment-or something different.

Your letter does not make it clear.

I suggest a meeting would be appropriate and I will ask Pam to arrange?

Regards

Rory

On 9 Jun 2021, at 21:53, Mike Robbins <mike.robbsins@northumberland.gov.uk> wrote:

Hello Rory,

Our Consultants SLC and Network Rail already have a meeting with you team on Tuesday 15th at 1115am and have suggested we use that slot to discuss. I don't know if you particularly want or need to be there or whether we can pick up with colleagues?

Thanks

Mike Robbins MRICS
Strategic Estates Manager
Strategic Estates
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

Tel 07979 273895
EMail Mike.Robbins@northumberland.gov.uk

Website: www.northumberland.gov.uk

NORTHUMBERLAND LINE PROJECT – TEAMS MEETING

Date & Time	15 th June 2021 at 11.15 -12.45
Location	Teams Meeting
Attendees	Russell Mills (RM) - SLC, Allen Creedy(AC) - SLC, James Holdroyd (JH) – Network Rail, Rory Wilson (RW) - NE, Colin Barnes (CB) - NE, Julia Robson (JR) - NE
Apologies	None

DETAILS OF MEETING

Action

AC started the meeting by providing an update on planning. The Northumberland Park application has had a few issues with the Environmental Health Officer defining and agreeing what is reasonable for working at night conditions and effect on residents. They believe they will have agreement on wording later today. Applications have been submitted at Chase Meadows, Bedlington and Bebside and Ashington. Residents are objecting at Bedlington to the creation of a carpark on open grassland. Newsham Station is delayed due to additional land being required for flood storage. Seaton Delaval there are issues.

RM confirmed there appeared to be two fundamental issues

1) Payment for passenger use under the historic wayleave agreement:

There was provision for the successor to contribute/make a payment for freight traffic use of the line and also for passenger use of the line.

RW confirmed this was correct and there was a wayleave payment for everything going across the line.

RM said it was very late on that Northumberland County Council (NCC) felt the situation should be used to streamline the current arrangement which was complicated mechanism for payments and which caused Network Rail issues in calculating payments.

RW said it was not clear what NCC were trying to obtain. JR confirmed the notices also were not clear as to what was being acquired.

RM confirmed there was also issues on biomass and the wayleave payments. This was passed to **JH** to comment on, but he confirmed he could not confirm on behalf of Network Rail their interpretations or agree anything. He asked if Luke Durstan had not come back to **NCC** or their legal team.

RW confirmed it was late in the day to serve notice and it was not understood what the notice was being served for. **RW** confirmed and requested the following :

- i. Northumberland Estates were never consulted on the concept.
- ii. What is the proposal they are making? The email from Mike Robbins is not clear what he is proposing.
- iii. CPO of our wayleave rights would not be welcomed by the Estate, but he believed we would be prepared to update or have simplification of the existing wayleave wording to agree a way forward. However, he did point out it takes 3 years for British Rail to do anything and we have previously had to go to court to get payments.

RM is to come back with clarity on the wayleaves.

JH stated he did not believe a commitment could be made as different options were being discussed:

- i. Capitalisation of wayleave payments as a one off with an additional peppercorn rent to reflect our ownership.
- ii. Updating of what is currently in agreement onto a more modern day footing.

Looking at different options to get a resolution and a wider discussion on betterment created by the scheme – **JH** said he could not provide a timeline.

RW confirmed that whilst **JH** could not provide a time frame, we were having to work to one, so we would have to object to the whole scheme and seek all costs etc. as we now had to protect our interests. Employ legals etc. It is unlikely Network Rail will be able to confirm anything before the time frame we have to submit our objections to.

RM confirmed he would like this resolved as soon as possible as he is aware of the cost implications which they will have to pick up so would work with **JH** to resolve.

RW also raised the issue of material being transported to Lynemouth. He confirmed that as Network Rail were not paying for use of the line, they should not be using the line for transporting hydrocarbon and so they cannot use the line. He said they needed to resolve the matter.

JH confirmed the question was being considered by his legal team and their interpretation. He hoped to be able to come back sooner on that point than on the wayleave payments issue. **RW** confirmed in the meantime they should refrain from using the line. **JH** said Network Rail need to be comfortable in their interpretation of Biomass.

CB went back to discuss timescales and an outline of the options, so that there can be discussion also clarity on what NCC and National Rail are trying to achieve.

2) Bridge Crossings:

Algernon Bridge: **RM** stated his investigations showed that Nexus currently maintain and own the bridge itself under the Deed of Grant that they have. **RW** confirmed his understanding was correct, however there are also other bridges that need clarity at the Shiremoor bypass and the Blyth and Tyne Rail Line. North Tyneside Council had confirmed they were not adopted, and we need written confirmation that we have no liability for these structures and surface. Regarding Algernon Bridge, **RM** will obtain confirmation on writing that Nexus are responsible for the whole bridge.

It was suggested that **RM** discuss the other matters directly with **JR** and use issues that are not resolved in the larger group, one such matter in the future will be the level crossing closure.

CB enquired about the proposed compound site on the east of the A19 Killingworth Moor land. It was confirmed that timescales cannot be agreed as the contractor is not to be procured until August, as the land is included in the TWO ancillary works order the use would be consented to under the order. Works are currently programmed to be undertaken between May 2022 for 6 months access being along the farm road to Ord's and into the field. **CB** stated he would welcome discussion on use of access HGV/40 Tonners etc.

ANY OTHER BUSINESS

The meeting was closed. **RW** asked **CB** and **JR** to remain on the meeting to discuss the meeting the following week with Lawyers. **JR** to prepare and Agenda and a meeting in person would be best at Quayside House on Tuesday 22nd June 2021 at 3.00pm.



Minutes

Meeting name Northumberland Line Railway Project	Programme name Northumberland Line	Attendees Rory Wilson – Northumberland Estates (NE) Colin Barnes – NE Julia Robson – NE James Holdroyd - NR Russell Mills – SLC Allen Creedy – SLC	Circulation list	Apologies None
Subject Property Matters				
Meeting date 15 th June 2021				
Time 11:15	Additional information N/A			
Venue TEAMS Meeting	Prepared by Russell Mills			

The purpose of the meeting is to discuss the most pertinent requirements relevant to NE's landholdings

Ref	Action	Responsible	Due by	Initial
01	As a preamble to the meeting AC outlined progress with station planning applications.			
02	<p>RM then stated that the purpose of the meeting was two-fold</p> <ol style="list-style-type: none"> To discuss Algernon Road bridge and its possible adoption To discuss the issue of payments for freight use under the current Wayleave Agreements and the provision that has been included in the TWAO which attempts to rationalise or update the mechanism for payments <p>RM suggested that a separate session or sessions with JR was probably more appropriate to discuss specific TWAO site requirements though it may be necessary to bring in a representative from NR's Liabilities team for discussions around Holywell Private User Works Crossing. There was general agreement to this suggestion.</p>			
03	<p>RM explained that in discussion with Nexus and NR it appears that Nexus are responsible for maintenance of Algernon Drive Bridge which may impact whether NE still look to have the bridge adopted by North Tyneside Council.</p> <p>CB confirmed that after further due diligence internally at NE, they had separately formed the same opinion but requested that RM confirmed Nexus's responsibilities for the bridge, including both the structure and surface.</p> <p>RM enquired whether that would now unblock the project's ability to discuss general land requirements</p>	SLC	25/06/21	RM

Error! Unknown document property name.
Error! Unknown document property name.

Error!
Unknown
document
property
name.

Ref	Action	Responsible	Due by	Initial
	with NE and start to agree the terms of the Land & Works Agreement. CB confirmed that subject to confirming the status of two further bridges in North Tyneside to ensure that they have been adopted, meaningful discussion regarding Transport and Works Act Order (TWAO) requirements can commence.	NE	02/07/21	CB
04	<p>RM explained that a provision to update or crystallise the system for payments under the Wayleave Leases had been included because of the difficulty of interpreting the historic legal agreements and relating them to modern day train operations.</p> <p>RW stated that he disagreed that the existing Wayleave obligation was confusing and also that he did not understand the wording of the initial email he received from Mike Robbins at NCC informing about the change.</p> <p>JH explained that there are two options in terms of the payments:</p> <ol style="list-style-type: none"> 1) For the crystallisation of payments due under the Wayleave Lease leading to a one-off compensation payment to be agreed, or 2) An updating of the current Wayleave Lease and modernisation of the payment calculation and criteria. <p>JH also stated that it would be useful to resolve the uncertainty around payments relating to biomass transported to Lynemouth Power Station with the current Wayleave not catering for a what is a relatively modern freight use. RW disagreed and stated that in his view it was very clear that biomass should be covered by the original agreement.</p> <p>RW stated that option no.1 would be his preference but in any event, until the issue is resolved NE will be submitting a formal objection to the TWAO. RW asked for that point to be minuted,</p> <p>It was agreed that JH would discuss with colleagues internally and agree on a proposal to put to NE within the coming weeks.</p>	NR	02/07/21	JH

Julia Robson

From: Russell Mills <russell.mills@slcproperty.co.uk>
Sent: 01 July 2021 15:11
To: Julia Robson; Rory Wilson; Colin Barnes
Cc: Jen Cuthbert
Subject: Northumberland Line - Meeting Minutes, 15.06.21
Attachments: Northumberland Line Meeting Minutes (NE) 15.06.21 .docx

Dear All,

Apologies for the delay in providing these but please find minutes of our meeting on 15th June attached - let me know if you have any comments or amends.

On a related subject and following further discussions with Nexus, they have confirmed that they are responsible for the maintenance of both the structure and surface of Algernon Drive Bridge, though also stressed that they do not 'own' the bridge. I believe that this arrangement is corroborated by the Deed of Grant that was agreed with Nexus when the bridge was constructed.

I hope that gives you sufficient comfort that you will not incur further maintenance costs relating to the bridge as a result of the Northumberland Line project but I would be grateful if you could confirm.

In terms of the Wayleave fees provision, I understand that this is still being confirmed internally at Network Rail. As soon we're able to do so, we'll be back in touch with more detail.

Kind Regards

Russell

Russell Mills MRICS

Senior Property Manager, North

 0121 285 2251  07384 832058  www.slcproperty.co.uk  [SLC Property](#)



[View the full image in your email client.](#)



[View the full image in your email client.](#)



[View the full image in your email client.](#)

Sable Leigh Property Limited is a limited company registered in England and Wales. Registered number: 10487342.

Registered office: One Eleven Edmund Street, Birmingham, B3 2HJ. The content of this email and any attachment transmitted with it is confidential. It may also be legally privileged or otherwise protected from disclosure. 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. 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.

Please consider the environment before printing this e-mail.

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution

Julia Robson

From: Russell Mills <russell.mills@slcproperty.co.uk>
Sent: 22 July 2021 19:30
To: Jen Cuthbert
Cc: Julia Robson
Subject: Northumberland Line - Meeting to discuss land requirements

Dear Jen,

In Julia's absence while she is away on Annual Leave, would it be possible to get something in the diary for weeks commencing 9th or 16th August.

This is for a meeting to discuss general land requirements but not including any issues such as Holywell LX and Wayleave leases which will require the participation of Network Rail.

There was an action for me to set up this follow on meeting for Julia and I following our most recent meeting on 15th June.

My availability for those weeks is as follows:

Monday 9th – 10.30 -13.00, 15.00 -17.00
Tuesday 10th – 11.00-13.00
Wednesday 11th – 10.00-14.00, 15.00-17.00
Thursday 12th – Any time but 11.30-13.00
Friday 13th – Any time after 10.00
Monday 16th - 15.00 -17.00
Tuesday 17th – 10.00-14.00, 16.00-17.00
Wednesday 18th – 09.00-11.00
Friday 19th – Any time after 10.30

I look forward to hearing from you.

Kind Regards

Russell

Russell Mills MRICS

Senior Property Manager, North

 0121 285 2251  07384 832058  www.slcproperty.co.uk  [SLC Property](#)



Sable Leigh Property Limited is a limited company registered in England and Wales. Registered number: 10487342.

Registered office: One Eleven Edmund Street, Birmingham, B3 2HJ. The content of this email and any attachment transmitted with it is confidential. It may also be legally privileged or otherwise protected from disclosure. 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. 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.

From: Duncan O'Connor <Duncan.O'Connor@pinsentmasons.com>
Sent: 22 September 2021 16:27
To: Frank Orr
Cc: George Wilson; Ruth Taylor (Planning & Environment and Energy & Infrastructure); Russell Mills
Subject: RE: The proposed Northumberland Line Order [WH-WH.FID2872012]

Hi Frank

It was good to meet you yesterday. I have raised with Network Rail your suggestion of a without prejudice meeting on article 35. Their solicitor will be in touch with you directly to discuss this. I hope that's ok.

Kind regards

Duncan

Duncan O'Connor
Legal Director
for Pinsent Masons LLP

D: [+44 20 7490 6995](tel:+442074906995) M: [+44 7920 413 486](tel:+447920413486) I: [816995](tel:+447816995)

Ranked 'Most favoured law firm' by Thomson Reuters' UK Law Firm Brand Index 2021

Winner – 'Property Team of the Year' at The British Legal Awards 2017 & 2019

Winner – 'Energy & Infrastructure Team of the Year' 2016, 2018, 2019 at The Legal Business Awards

Proud to have ranked fourth place overall and top law firm in the Stonewall Top 100 Employers 2020

Pinsent Masons supports agile working, so please don't feel you need to respond to this email outside your working hours.

Leeds
Manchester
Newcastle

ward
hadaway

Marnix Elsenaar
Addleshaw Goddard LLP

Your Ref:
Our Ref: FMO.NOR103.425
Doc No: 32988038v1
Date: 30 September 2021

By email: marnix.elsenaar@addleshawgoddard.com

Dear Marnix

Northumberland Line Transport and Works Act Order
Your Client: Network Rail
Our Client: Northumberland Estates

Further to my last week raising the issue of a without prejudice meeting with Northumberland County Council's solicitor and our subsequent conversation I should be obliged if you could let me know if your clients are available for such meeting and discussion. For its part Northumberland Estates is available from next week.

Yours sincerely



Frank Orr
Consultant
For Ward Hadaway LLP

+44 (0) 330 137 3515
frank.orr@wardhadaway.com

From: Elsenaar, Marnix <marnix.elsenaar@addleshawgoddard.com>
Sent: 01 October 2021 17:09
To: Frank Orr
Cc: Volodina, Tatiana
Subject: RE: Northumberland Line Transport and Works Act Order (NOR103.425) [WH-WH.FID2872012] [ADDGDD-LIVE.FID3555687]

Dear Frank

Thank you for your letter. Network Rail are willing to have a meeting and I am checking who would be best placed to meet with your team. I'll revert to you with suggested dates as soon as I can.

Kind regards

Marnix Elsenaar
Partner

Addleshaw Goddard LLP

Tel +44 (0)20 7160 3246
Mob +44 (0)7872 413709

[View our office locations](#)

TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006
NORTHUMBERLAND LINE
DFT REFERENCE: TWA/21/APP/03 OBJ/12

STATEMENT ON BEHALF OF THE RIGHT HONOURABLE DELAVAL THOMAS
HAROLD LORD HASTINGS BARON HASTINGS

Introduction

1. Northumberland County Council ("NCC") is the promoter of the Northumberland Line Order ("the Draft Order") to which The Right Honourable Delaval Thomas Harold Lord Hastings Baron Hastings ("Lord Hastings") is a statutory objector. I originally submitted an objection on behalf of Lord Hastings on the 24th June 2021 and subsequently refined that objection on the 1st October 2021 by indicating that the principal concern of Lord Hastings was in relation to the inclusion of Article 35 in the Draft Order which seeks to render ineffective a wayleave agreement ("the Wayleave Agreement") that presently subsists in relation to land owned by Lord Hastings and over which the existing railway line to be used for the Northumberland Line passes. A Public Inquiry is scheduled to commence on 9 November 2021 at which Mr Colin Cottage BSc (Hons) MRICS of Ardent Management will give evidence on behalf of Lord Hastings as well as on behalf of the Northumberland Estates ("the Estate").
2. This statement is made in support of the objection by Lord Hastings. In the interests of making best use of Inquiry time it is to be appended to the proof of evidence of Mr Cottage. In the event that any of the matters contained within it are in dispute, and it is considered of assistance to the Inspector for a witness for Lord Hastings to attend to speak to this statement I would be pleased to do so.
3. On behalf of Lord Hastings, I wish to record that Lord Hastings fully supports the case and arguments put forward by the Estate in relation to Article 35 as set out in its letter of objection dated 7 July 2021, its statement of case and its statement accompanying the proof of evidence to which this statement is appended. The interests of Lord Hastings and the Estate in relation to Article 35 are fully aligned and for this reason, and in the interests of making most efficient use of Inquiry time, we have now agreed a joint instruction of Counsel, Ward Hadaway LLP and Colin Cottage.
4. I am Roddy Findlay and I am employed by Galbraith. I am a Chartered Surveyor BLE MRICS FAAV and I have responsibility for managing and looking after the various property and land interests of Lord Hastings (the Seaton Delaval Estate).

Dealings with NCC and Network Rail

5. Lord Hastings principal objection to the Draft Order concerns the inclusion of Article 35, which seeks to modify the Wayleave Agreement between Lord Hastings and Network Rail ("NR") such that the obligations to pay rent under the wayleave agreement are to cease. It should be noted that railway rights of use are already in place and have been since 1853 pursuant to and by virtue of the Wayleave Agreement.

Rather the concerns of NR are in respect of rent payments which likewise have been in existence for almost 170 years and will be available for the residue of the 1000 year term.

6. Over the years that I have been involved with looking after the affairs of Lord Hastings (now at Galbraith and formerly with Land Factor) I have had to press NR for recovery of information relating to use of the line in order to be able to calculate the amount of rent due under the Wayleave Agreement. The only correspondence I have had with NR has always been in respect of requesting information required to calculate the rent payments due. In the course of those dealings with NR the information required to calculate the rent payments due has never been forthcoming and no rent paid by NR, despite the obligations to pay rent contained in the Wayleave Agreement. NR has, however, never contacted me insofar as I can recall to discuss any sort of revision or amendment to the Wayleave Agreement. My involvement with NR in relation to dealings relating to the Wayleave Agreement and payments under them has solely been in this context.
7. In the context of the Northumberland Line scheme, whilst it is the case that there have been some meetings between myself, on behalf of Lord Hastings, and SLC Property ("SLC", advisers to NCC) in respect of the Northumberland Line those meetings and discussions have focussed on other matters relating to the scheme. There has been no discussion regarding the issue now raised in the form of Article 35 and I had no warning prior to the submission of the Draft Order that powers were proposed to be taken in the form of Article 35.
8. I am aware that on the 26 May 2021 NCC's solicitors Pinsent Masons submitted the Draft Order to the Secretary of State. At 17.08 on 26 May 2021 Mike Robbins, Strategic Estates Manager at NCC, emailed me stating that:

"I am writing to update you of Northumberland County Council's intention to include a provision in the forthcoming Transport and Works act Order for the Northumberland Line Project that will remove Network Rail's obligation to pay rent under the relevant wayleave Leases for the stretches of line owned by Lord Hastings

If you are familiar with the existing provisions, I'm sure you would agree that they are outdated and unclear in the context of the modern railway, so it's appropriate for them to be revoked and replaced with an entitlement to compensation.

We will be in touch in due course to discuss compensation and whether it is relevant to the stretches of line owned by your client

I hope that this is clear – if you would like further information please do not hesitate to contact me."

9. I find it quite remarkable that this was the first occasion that the proposed inclusion of Article 35 in the Draft Order was brought to my attention. Indeed what it is even more stark is the language of the e-mail on 26 May 2021 which attempts to down play the significance of the proposed Article 35.
10. Following the e-mail of 26 May 2021, I had meetings with SLC on 14th July 2021, 30th July 2021 and 8th September 2021. All of these meetings covered site specific matters and there was no mention at any of these meetings of Article 35. There have also been a number of calls with SLC in the interim, but the Wayleave Agreement was only discussed in a call I had on 30 September 2021 with Peter Eustace of SLC, when I initiated a conversation to confirm that Lord Hastings would sustain his objection to the scheme but in respect of Article 35 only. In particular, there has been no attempt at all by NCC or NR to engage with me on behalf of Lord Hastings or discuss on any basis a potential updating of the Wayleave Agreement.
11. The lack of any engagement in respect of the Wayleave Agreements is a matter of grave concern.
12. Lord Hastings seeks clarification as to how and why this has occurred. In particular Lord Hastings is unclear as to when NCC decided to include Article 35 into the Draft Order, who decided that it should be so included (whether NCC or NR) and what the rationale for its inclusion was. Lord Hastings would reasonably have assumed that if a provision such as Article 35 was to be included in the Draft Order that it would have been so included only after discussion with Lord Hastings about its inclusion. Even after including Article 35 in its proposed Draft Order it did not inform Lord Hastings until after 5pm on the day the Draft Order was submitted to the Secretary of State. That email would very much appear to be an afterthought.

Statement of Truth

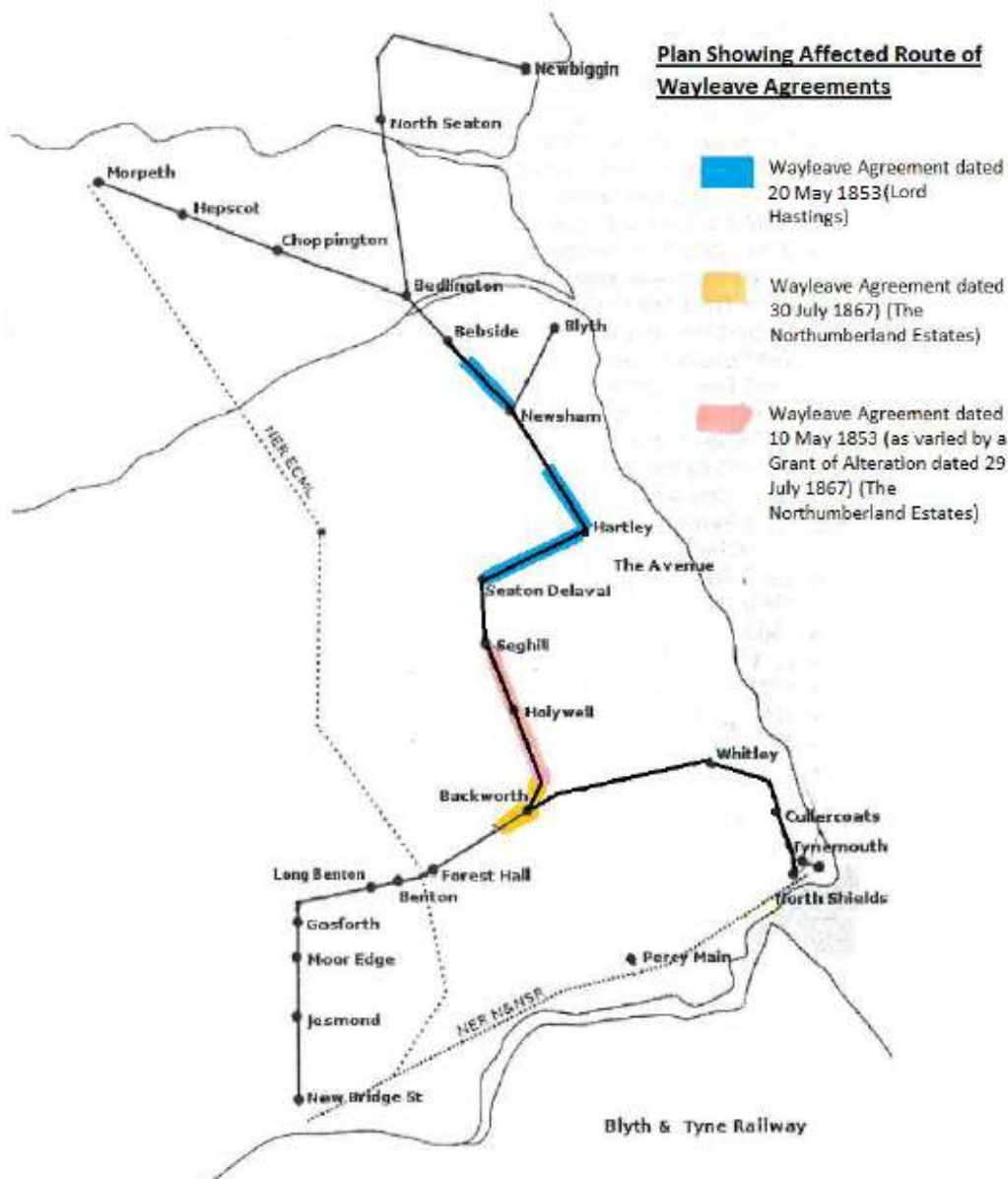
13. Notwithstanding that this is a written submission in support rather than a proof of evidence per se it is to the best of my knowledge and belief true and I confirm that the opinions expressed are my true opinions.

Signed:



Dated:

12th October 2021



Julia Robson

From: Julia Robson
Sent: 10 May 2021 16:30
To: 'Russell Mills'
Cc: Rory Wilson; Colin Barnes; Jen Cuthbert
Subject: Land and Works Agreement Heads of Terms

Afternoon Russell,

I have taken a look at the proposed Land and Works Agreement Heads of Terms which you forwarded for comment - whilst in principal the estate had been prepared to consider such a document in its current form it would not be acceptable. Until the position is resolved on the successful adoption of both the bridge and surface of the bridge at Algernon Terrace I don't think we will be able to make any progress. The construction of the station and access to it should not create a burden or liability for the estate permanently, therefore the structure and surface should be adopted by the Local authority or acquiring authority

There are also issues regarding the permanent land takes, licences, position on extinguishment of the level crossing has not been agreed by the estate, payment terms are not agreed, fees are not agreed, details need to be disclosed of what rights are being transferred and what retained. Item 15 is also not agreed this would not be acceptable until we know the position on the bridge.

Earsdon Level crossing – please can you supply the plan of the area here to be permanently acquired

In order to make any progress we have to have an agreed position on the Bridge

Regards

Julia