

## **NETWORK RAIL (HUDDERFIELD TO WESTTOWN (DEWSBURY)) IMPROVEMENTS) ORDER**

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### **OPENING SUBMISSIONS ON BEHALF OF NETWORK RAIL**

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#### **Overview**

1. The case for making the Transport and Works Order that is before this public inquiry rests on a simple but compelling proposition. The North Transpennine railway line is in urgent need of improvement. The Order scheme is critical to meeting that need.
2. The railway does not currently meet the needs of passengers or train operators, because it lacks the capacity and resilience to enable it to do so. As a result, the railway does not fulfil its role as a key rail transport artery serving the great cities and mercantile towns of Lancashire, Yorkshire and the North East. The railway used to fulfil that role. Indeed it began to do so as long ago as the pioneering period of rail transport in this country, in the middle years of the nineteenth century. That was its purpose. More recently, during the second half of the twentieth century, the railway fell victim to the prevailing transport policy of the time, that saw the future in mass car ownership and dwindling use of rail travel. The capacity of the railway was reduced and disinvestment followed – four tracks became two along significant sections of its route.
3. The time has come to reverse that - and to restore the railway to the capacity that will enable it to play its proper part again in meeting the transport needs of the Northern region, both now and for the future. That is not merely the judgment of Network Rail as the applicant for this Order. It is the clear consensus between Government, regional and local transport and planning authorities. It is the clear position adopted in transport planning policy at national, regional and local level. The strategic purpose is straightforward. The Transpennine Rail Upgrade is a pressing national, regional and local objective. If levelling up is to happen, the Transpennine Railway Upgrade must be delivered.
4. The Order scheme is critical to the delivery of the Transpennine Route Upgrade. The line between Huddersfield and Westtown is currently a key constraint on the capacity, efficiency of operation and resilience of the North Transpennine Railway. The engineering improvement works to be authorised by this Order will unlock that constraint. The reasons why that is the

case are equally straightforward. The engineering works which the Order proposes will release vital capacity through provision of a four track railway, separation of two key rail lines which presently cross at grade, enhanced geometry, and capacity improvements at Huddersfield station. Taken together, these engineering works will allow the efficient operation of a timetable of fast and stopping passenger services which will secure significant journey time improvements and reliability, not only on the route covered by the Order but across the North Transpennine route and the northern region. The Order will also take forward Network Rail's programme of electrification, a step forward in the progressive decarbonisation of the rail network.

5. Much of the land needed to deliver these vital and beneficial engineering improvements to the Order route is already with Network Rail's ownership or control. However, in order to secure the rail corridor that is required to meet modern rail engineering and safety standards, and to satisfy modern standards of environmental design and mitigation, some further land is needed.
6. The case for acquisition of that land is indeed compelling. Indeed, it is remarkable that as we embark on this inquiry into those objections that remain to the Order, there is only one objection in the programme which maintains a serious challenge to the justification for taking the objector's land for the Order works. We do not consider that objection to be well-founded, although we understand the concerns that have led the objectors to maintain it. Nevertheless, the position generally is striking. Delivery of the Order scheme will require extensive engineering works through the heavily developed Calder valley, yet those directly and indirectly affected by the works are willing to accommodate them, subject of course to appropriate safeguards to protect their interests. It is not unreasonable to infer a general recognition that if we are to grasp the nettle of economic and social advancement across the northern region, carefully targeted and transformative interventions like the Order scheme must be taken forward.
7. As we have noted, this railway line traces its lineage back to the early years of railway construction – the so called “pioneering age”. The Order scheme seeks to revitalise that railway – to make it fit for operation in and through the 21<sup>st</sup> century and to serve the needs of a resurgent local and regional economy and society on both sides of the Pennines. In order to achieve that purpose, it is inevitable that changes are needed to the historic fabric of the railway line. We recognise that those changes inevitably affect the significance of that historic

fabric and that in a number of instances those effects are, measured in policy terms, harmful. They are, however, necessary in order to achieve the functional and operational improvements that must be secured if the North Transpennine railway is to continue to fulfil the purpose which those railway engineers of the distant past had as their objective – to meet the needs of its passengers and other users, to serve the needs of the local and regional economy, and to connect communities large and small across the northern region.

### **The Order's purpose**

8. The purpose of the draft Order is to provide Network Rail with the necessary powers to construct, operate and maintain an improved railway, including the upgrade and reconstruction of the existing railway and railway electrification works on the North Transpennine line between Huddersfield and Westtown (Dewsbury). The draft Order would also authorise improvements to Huddersfield Station, and works of construction, or reconstruction, to stations at Deighton, Mirfield and Ravensthorpe.
9. There are the following applications before this Inquiry:
  - (I) The proposed Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order ("the draft Order")<sup>1</sup>;
  - (II) A request for deemed planning permission for development carried out within any of the limits or at any of the places authorised by the draft Order and accompanying plans and sections<sup>2</sup>;
  - (III) 9 applications for Listed Building Consent<sup>3</sup> for works to Huddersfield Station,<sup>4</sup> Huddersfield Viaduct,<sup>5</sup> Wheatley's Lane Colliery Lane Overbridge,<sup>6</sup> Colne Bridge

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<sup>1</sup> Pursuant to ss1 and 5 of the Transport and Works Act 1992. Core Doc NR002 (as amended, see INQ/9 and INQ/10).

<sup>2</sup> Pursuant to s.90(2A) of the Town and Country Planning Act 1990. Core Doc NR012 (with amended proposed conditions, see INQ/12).

<sup>3</sup> Under Chapter II of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>4</sup> Core Doc NR017 (with amended proposed conditions, see INQ/6)

<sup>5</sup> Core Doc NR018 (with amended proposed conditions, see INQ/6)

<sup>6</sup> Core Doc NR019 (With amended proposed conditions, see INQ/6)

Road Overbridge,<sup>7</sup> Mirfield Viaduct,<sup>8</sup> Calder (Wheatley's) Underbridge,<sup>9</sup> Occupation Underbridge,<sup>10</sup> Toad Holes Underbridge,<sup>11</sup> and Ming Hill Underbridge<sup>12</sup>; and

(IV) Requests for certificates relating to the acquisition of public open space land.<sup>13</sup>

10. If made, the draft Order and associated consents would authorise upgrade works to a critical section of the North Transpennine Route ("the Scheme Route").<sup>14</sup> The North Transpennine Route is the key East-West artery across the Northern economy. It forms the most direct existing rail link between Manchester and Leeds; is used as a "spine" to link wider economic centres, including Newcastle, Hull and Liverpool; and connects city centres to smaller towns, commuting areas, and key sites such as Manchester Airport. It also serves an important economic function in terms of supporting freight flows as one of the more direct East-West corridors across the North.

11. The Order scheme ("the Scheme") forms part of a wider programme of works known as the Transpennine Route Upgrade ("TRU"). This is a series of railway upgrade projects between Manchester, Huddersfield, Leeds and York, the purpose of which is to improve journey times and capacity between key destinations on the Route and to improve the overall reliability and resilience of the Route.

12. The Scheme would deliver:

- (i) The doubling of the number of tracks, from two to four, allowing for separate 'fast' and 'slow' lines along the majority of the Scheme route;
- (ii) The provision of a grade-separated junction at Thornhill Junction, removing the conflict where the North Transpennine Route and Brighouse-Wakefield (Calder Valley) route crosses at grade;

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<sup>7</sup> Core Doc NR020 (with amended proposed conditions, see INQ/6)

<sup>8</sup> Core Doc NR021 (with amended proposed conditions, see INQ/6)

<sup>9</sup> Core Doc NR022 (with amended proposed conditions, see INQ/6)

<sup>10</sup> Core Doc NR023 (with amended proposed conditions, see INQ/6)

<sup>11</sup> Core Doc NR024 (with amended proposed conditions, see INQ/6)

<sup>12</sup> Core Doc NR025

<sup>13</sup> Pursuant to s.19 of the Acquisition of Land Act 1981. Core Docs NR026 and NR027.

<sup>14</sup> Elements of the Scheme will be delivered pursuant to Network Rail's permitted development rights under Part 8 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.

- (iii) An increase in the number of through platforms at Huddersfield Station, with associated operational improvements to the existing station;
- (iv) Upgrades to the existing stations at Deighton and Mirfield, and provision of a replacement station at Ravensthorpe;
- (v) An increase in line speed – on the newly designated ‘fast’ lines ;
- (vi) Electrification of this section of the North Transpennine Route.

13. The main construction of the Scheme would commence, on the current programme, in 2023, with entry into service at the end of 2026. Section 7 and Appendix C of the Statement of Case<sup>15</sup> provide a detailed description of the works and the proposed construction arrangements. For ease of assessment, the Scheme has been divided into 6 sections, known as Route Sections 1 to 6. These Route Sections are shown schematically on Insert 2.1 in Volume 2:1 of the Environmental Statement (“the ES”).<sup>16</sup> The location of the Scheme, and Scheme boundary, are shown on Figure 1.1 in Volume 4 of the ES.<sup>17</sup> Detailed Scheme Drawings can be found in the Planning Drawings: Core Doc NR13.

### **The Case for the Scheme: Aims, Objectives and Need**

14. The need for, aims and objectives of the Scheme are set out in detail in Section 4 of Network Rail’s Statement of Case,<sup>18</sup> the Statement of Aims and Objectives,<sup>19</sup> and the evidence of David Vernon.<sup>20</sup>

15. The Transpennine Route is a key strategic route. It is one of the busiest lengths of rail at peak times on the national rail network. It is identified for significant growth in the future, but has not seen significant infrastructure investment to increase capacity for many years. The

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<sup>15</sup> Core Doc NR028

<sup>16</sup> Core Doc NR016A

<sup>17</sup> Core Doc NR016D

<sup>18</sup> Core Doc NR028

<sup>19</sup> Core Doc NR04

<sup>20</sup> NR PoE DV 1.2

network is becoming increasingly crowded and congested; journeys are slow and unreliable; and there is limited capacity to accommodate growth on the existing infrastructure.

16. In order to address current challenges on the Transpennine Route and support the objectives of supporting economic growth and “levelling up opportunities” across the North of England, Network Rail is promoting a series of projects as part of the TRU programme. Each project will bring its own benefits, with the overall TRU aims including (i) improved journey times between Leeds – Manchester Victoria and York – Manchester Victoria; (ii) capability to operate 8 ‘express services’ an hour and 6 ‘local services’ per hour, and (iii) reliability performance to be significantly improved (detailed more particularly in para 3.4.4 of the Statement of Aims and para 4.2.1 of David Vernon’s Proof of Evidence).
17. The Scheme Route is the main bottleneck on the Transpennine Route where significant capacity and performance issues are currently encountered. It acts as a constraint on the capacity and reliability of the whole Transpennine Route:
  - (i) Track capacity: with only one track in each direction across the majority of the Scheme Route, fast (express) services routinely catch up the slow (stopper) services, delaying those fast services. This also means there is not capacity to increase the number of services able to use the Scheme Route, and in consequence, the wider Transpennine Route;
  - (ii) Conflicting train movements: there are conflicting train movements where the Wakefield lines join the Transpennine Route at Ravensthorpe. Any increase in services without any interventions would only exacerbate the problem;
  - (iii) Huddersfield Station: the Station, a busy regional interchange station, with many services terminating or originating, which adds further conflicting train paths. It currently has three through platforms. This presents a significant constraint on the ability to regulate services and manage the network efficiently;
  - (iv) Line Speeds: there are speed limits in place at various locations across the Scheme Route, with slower speed limits of 75mph in the Heaton Lodge area, and between the existing Ravensthorpe Station and Dewsbury Station;

- (v) Reliability: the Scheme Route is one of the most congested sections of the Transpennine rail network with limited places to manage train performance. Therefore, if a train failure occurs on the Scheme Route, this often means a full blockage of the Scheme Route in either the up or down direction with wider impacts across the network.

18. The Scheme is therefore a key contributor to the delivery of the wider TRU programme:

- (i) Four tracking: the provision of a four track railway through the Scheme Route will provide the capability to segregate fast (express) services from slow (stopping) services and freight. This will allow for more services, and types of services, to be operated on individual lines (including more operational capacity for local urban services serving Deighton, Mirfield and Ravensthorpe), and mean that should a train break down, there will be a new flexibility to move different services between the up and down lines, rather than being held up until the problem is addressed.
- (ii) Grade separation: the new grade separated junction at Ravensthorpe will remove the conflicting train movements currently performed by trains accessing/exiting the Wakefield lines in this area.
- (iii) Huddersfield Station: the increased platform capacity (with an additional 'through' platform, and increase in platform lengths to accommodate longer, 8 car rolling stock) at Huddersfield Station, coupled with track layout improvements at the station, will allow for the ability to platform a train in either direction at 4 platforms at the Station, ensuring there are fewer bottlenecks and less need to 'queue', and will also facilitate train crossing moves to the west of the station.
- (iv) Line speeds: The provision of dedicated fast lines will allow for faster line speeds on these lines throughout the Scheme Route (100mph). The rail alignment will also be straightened (away from a reverse curve) towards Dewsbury, removing an existing constraint on line speeds in this area.

- (v) Electrification: The Scheme will deliver new track and electrification equipment which will be more reliable than the older rail assets which currently exist on the Scheme Route, further improving the reliability of the route and the train services operating on it.

19. The electrification of the Scheme Route will deliver on Network Rail's decarbonisation objectives. In addition, the improvement works to Huddersfield, Deighton and Mirfield Stations, and replacement of Ravensthorpe Station to the west of its existing location, will deliver four fully accessible and compliant stations with blue-badge parking and improved public access.

20. The TRU, and the Scheme, command strong support both in national, regional and local transport policy and from key stakeholders. Kirklees Council fully supports the application,<sup>21</sup> as does the West Yorkshire Combined Authority.<sup>22</sup> It is enshrined in local and local transport policies. Funding has been committed by Government.<sup>23</sup> This Scheme is needed – and is needed now.

#### **Neighbouring landowners and occupiers**

21. The Scheme Route was, historically, a four-track railway, the four-tracks being reduced to two as a product of declining demand, disinvestment, and associated 'rationalisation' of the infrastructure to reduce operating and renewal costs, during the 1960s and 1980s.

22. The historic 4-track formation and supporting infrastructure is still to a large degree complete and within Network Rail's ownership. However, whilst restoring additional rail infrastructure as part of the Scheme is feasible, there are engineering challenges to be resolved, with consequential impacts on neighbouring landowners and occupiers.

23. The steps which Network Rail has taken, and scope for further measures to reduce those impacts are addressed in the evidence of its witnesses, in particular Graham Thomas<sup>24</sup> (Engineering and Design) and Mike Pedley<sup>25</sup> (Construction Management). They also explain

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<sup>21</sup> See its letter of 21 October 2021.

<sup>22</sup> See its letter of 27 October 2021.

<sup>23</sup> See the Funding Statement (Core Doc NR06)

<sup>24</sup> NR PoE GT 2.2 – 2.6

<sup>25</sup> NR PoE MP 3.2 – 3.4



why certain of those impacts are, unfortunately, unavoidable: in particular, those in the vicinity of the new grade separated junction at Ravensthorpe which are of particular concern to those objectors who occupy, or have interests in, land to the west of the existing Calder Road Bridge (“the Newlay Site”).<sup>26</sup>

24. This particular issue will be explored in detail during the third scheduled week of the inquiry. In summary, the permanent land requirement from the Newlay Site arises as follows:

- (i) Four tracks will be provided from Mirfield to the new junction by the River Calder. The fast lines are positioned to the south of the railway alignment throughout, with grade separation as described in detail by Graham Thomas to be provided at Ravensthorpe;
- (ii) The existing Calder Road highway crosses the River Calder and the existing railway to the west of the existing Ravensthorpe Station on two overbridge structures. The proposed elevated fast lines would clash with the existing railway overbridge and its southern abutment. The bridge is also too low to allow electrification equipment to pass beneath;
- (iii) To provide sufficient vertical clearance to the fast lines and the OLE, it is proposed to construct a new Calder Road overbridge at a higher level than existing, with the approaches on either side modified to suit. It is not possible to reconstruct the Calder Road overbridge on its current highway alignment without significantly increasing the vertical gradients on each approach to the bridge;
- (iv) To minimise highway closures (this is a well-used route between Ravensthorpe and Thornhill), and to facilitate utility diversions, is it proposed to construct a new railway overbridge, which will be situated to the west side of the existing bridge. This will impact on the Newlay Site.
- (v) The proposed highway alignment includes a roundabout to the south of the railway. This has been included to minimise impacts on third party land – including the Newlay Site – and to avoid the need for tight bends in the horizontal

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<sup>26</sup> Obj /8 (Hargreaves (GB) Ltd), Obj/19 (Newlay Asphalt Ltd), Obj/20 (Newlay Readymix Ltd), Obj/21 (Newlay Concrete Ltd), Obj/22 (Dewsbury Sand and Gravel Ltd) and Obj/29 (Wakefield Sand and Gravel Ltd).

geometry where it ties back into Ravensthorpe Road. It will also ensure that access is maintained for existing third-party properties (the Newlay Site, Calder Road Business Park and Veolia), and that access for the Dewsbury Riverside allocation to the south would not be precluded or prejudiced by the Scheme.

25. This is the principal controversial element of the main engineering works comprised in the Scheme which remains before the inquiry. Network Rail is confident that this element of the engineering design included within the Scheme is necessary and justified, balancing the operational needs of the railway, the construction challenge, cost, impacts on third parties, and other infrastructure, to address this critical constraint on the Order route.
26. The impacts of the engineering works around Huddersfield Station and Castlegate Retail Park on the development or use of their properties are the focus of objections by HD1 Developments Ltd (Obj/23); the Yorkshire Children’s Centre (Obj/15) and Kinder Properties Ltd (Obj/15) and their tenants. Again, the need for those works, how they are to be managed, and how Network Rail has sought, and will continue to seek, reasonably to accommodate and to minimise the impact on those objectors are addressed through the evidence of Graham Thomas and Mike Pedley. Compensation and relevant proprietary matters are addressed in the evidence of Nigel Billingsley,<sup>27</sup> whose Appendices contain more detailed information as to the specific land parcels affected, and the nature of the rights or powers sought over third party land.
27. In the case of each objector, Nigel Billingsley summarises the purposes for which the land subject to compulsory purchase or possession is required for the Scheme. For the reasons summarised in this opening statement and stated in far more detail both in Network Rail’s Statement of Case and in the evidence given on behalf of Network Rail, it is our submission that there is a clear and compelling case in the public interest for compulsory purchase of those lands (and indeed the lands and rights shown in the Book of Reference<sup>28</sup> ). That compelling case can be analysed in two straightforward propositions –
  - (i) The principal purpose of the Order is to authorise the works required to deliver and to operate the Scheme. The lands included with the Order limits are required for that purpose. The evidence of Graham Thomas, Mike Pedley and Chris

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<sup>27</sup> NR PoE NB 5.2 – 5.4

<sup>28</sup> Core Doc NR08.

Williams<sup>29</sup> provides the design, engineering and construction management justification for that proposition. The evidence of Jim Pearson<sup>30</sup> and other environmental witnesses provides that justification in respect of the need for appropriate works to mitigate the environmental effects of the Scheme.

- (ii) The Scheme is compellingly justified on transport planning grounds and will deliver significant transport, social and economic benefits. The design specification is described by Graham Thomas. The strategic, policy and business case is stated in the Statement of Case and substantiated in the evidence of David Vernon and Tony Rivero<sup>31</sup>. There is no impediment to delivery of the Scheme. It enjoys express support from Government and funding to enable its implementation is committed.

#### Highways and other infrastructure assets

28. The upgrades and improvements to be effected by the Scheme require changes, or interventions, to be made to a number of other highways and infrastructure assets. Network Rail has been working closely with Kirklees Council since submission of the Council's representation to resolve the concerns it had raised regarding highway disruptions, and impacts on statutory waste functions, and a detailed Statement of Common Ground has been submitted,<sup>32</sup> which refers (inter alia) to the side agreements that have been entered into in respect of highways assets and how the interface between the Order Works and (i) the Emerald Street Household Waste and Recycling Centre and (ii) Weaving Lane Waste Facility is to be managed.

29. Construction of the Scheme will inevitably result in traffic impacts. Those impacts and the measures proposed in the Order and the deemed planning permission to mitigate and to manage them, have been assessed in the Transport Assessment included as chapter 14 of the Environmental Statement. Delivery of the Scheme will be controlled under the requirements of a comprehensive Code of Construction Practice which must be approved and operated under the conditions of the deemed planning permission. A key element of that Code will be

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<sup>29</sup> NR PoE CW 11.2

<sup>30</sup> NR PoE JP 8.2

<sup>31</sup> NR PoE TR 4.2

<sup>32</sup> NR/SOCG/1

a comprehensive construction traffic management plan, prepared in close consultation with Kirklees Council as the local highway and traffic authority, and approved by them. Graham Foulkes give evidence on the effects of the Scheme on highways and traffic, and on public rights of way.<sup>33</sup>

30. Protective provisions for statutory undertakers (including utilities) are contained in Schedules 18 and 19 of the draft Order. Where statutory provisions have been disapplied, an explanation has been provided: see, in particular, the Explanatory Memorandum,<sup>34</sup> and evidence of Jim Pearson.<sup>35</sup> Those provisions strike the right balance between ensuring the Scheme can proceed, and can proceed without the need for multiple consent processes, whilst ensuring that there has been – and will continue to be – proper protection for the relevant statutory undertaker or regulatory body. The Canal and River Trust (Obj/35) continue to seek additional commitments and controls over Network Rail’s construction and operation of the works proposed to be authorised by the Order. Network Rail does not consider that those additional commitments and controls are necessary or justified – and they risk prejudicing the timely and economic delivery of the Scheme in accordance with the provisions of the Order, the deemed planning permission and the listed building consents and their respective conditions.

### **The historic environment**

31. Network Rail’s case in relation to the effects of the Scheme on the historic environment is presented in detail in chapter 8 of its Statement of Case. Katie Rees-Gill gives expert evidence in support of that case.<sup>36</sup> Network Rail has made 9 applications for listed building consent for works to listed structures required as part of the Scheme. Those applications have been referred to the Secretary of State for Housing, Communities and Local Government pursuant to section 12(3A) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Each application is accompanied by a detailed heritage assessment which appraises the significance of the asset, the impact of the Scheme, and mitigation or compensation proposed. A series of conditions have been proposed (and agreed with Kirklees Council), including a requirement for a Conservation Implementation Management Plan (CIMP) to be submitted to and approved by Kirklees for each asset. The outline contents for the proposed CIMPs have been

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<sup>33</sup> NR PoE GF 7.2 – 7.4

<sup>34</sup> Core Doc NR 03

<sup>35</sup> NR PoE JP 8.2

<sup>36</sup> NR PoE KR-G 6.2

provided at Appendix 4 to the Proof of Katie Rees-Gill, with the CIMP successfully operated for delivery of works to Stephenson Bridge pursuant to the Network Rail (Ordsall Chord) Order 2015 provided at Appendix 3.<sup>37</sup>

32. Network Rail has consulted closely with Historic England during the development of the Scheme. The correspondence submitted to the inquiry this morning<sup>38</sup> records the current position as Network Rail considers it to be, based upon the most recent meetings and discussions which have been held with Historic England. In their letter responding to Network Rail's letter of 28 September 2021, Historic England have adopted their standard position that as they have chosen not to participate in the inquiry proceedings, they will not be party to a statement of common ground. Nevertheless, Historic England speak of a "very positive and constructive process" thus far and look forward to the "development of future phases". It is clear that Historic England raises no substantive objection either to the making of the Order or to the grant of listed building consent.

33. Each of the listed buildings affected by proposed works deserves careful and sensitive consideration. However, Huddersfield Station deserves particular mention as a Grade I listed building. There is a specific design and access statement for the proposed works needed to improve the function of the station: see Core Doc NR15A. Graham Thomas describes the development of the proposed design in his evidence. As paragraph 4.3 of NR15A records, the design is rooted in a series of conservation principles which have as their objective the conservation of the significance of this important historic asset. In particular, the Scheme design avoids any impact upon the station frontage and its essential relationship with St George's Square. Our submission at the outset is that the design of the works to Huddersfield Station is necessary to achieve the functional improvement upon which the Scheme depends, and is appropriate to the conservation of its high significance as a Grade I listed building. Subject to development of the detail under the controls imposed by the deemed planning permission and listed building consent, the Scheme should proceed.

34. More generally in relation to the effects of the Scheme on the historic environment, we return to the context. Each of the 9 assets affected are railway assets. Their significance is inextricably linked with the railway which they were built to serve. The purpose of this Scheme is to ensure that railway can continue to meet the needs of the travelling public, and

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<sup>37</sup> NR PoE KR-G 6.3

<sup>38</sup> INQ/7

of freight, in the 21<sup>st</sup> Century. It is difficult to conceive of a more obvious example of a development proposal which is designed to conserve and enhance the significance or ensure a viable use of heritage assets, than a scheme which seeks to restore a critical part of the Transpennine Route to the functional, strategic and economic status that it originally enjoyed. It is to be noted that there is no substantive objection to the applications for listed building consent.

35. The wider effects of the Scheme on the historic environment are comprehensively assessed in the heritage assessment included in the Environmental Statement. The applications, the potential impacts on other heritage assets affected by the Scheme, and how they accord with national and local policy are addressed in the evidence of Katie Rees-Gill, and will be the subject of more detailed consideration towards the end of the inquiry.

#### **Environmental information & biodiversity**

36. The Scheme has been the subject of detailed environmental assessment, as set out in the Environmental Statement submitted with the application.<sup>39</sup> Further survey work has been carried out during 2020/2021.<sup>40</sup> Draft applications for EPSM licences have been prepared<sup>41</sup> and provided to Natural England which has indicated that it is content, in principle, with Network Rail's approach.<sup>42</sup> Network Rail has also committed to seeking to achieve a net gain in biodiversity of 10%: see section 7 of Jim Pearson's Proof and proposed planning condition 19.<sup>43</sup> The project's approach to environmental assessment, the environmental impacts of the project, and to ecology are addressed through the evidence of Jim Pearson and Niall Machin<sup>44</sup>. Noise and vibration are addressed in the evidence of Adam Lawrence<sup>45</sup>. These should all be read alongside the very detailed assessment contained in the Environmental Statement.

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<sup>39</sup> Core Docs NR16 – 16c.

<sup>40</sup> Core Docs NR 099-101

<sup>41</sup> Core Doc NR 107

<sup>42</sup> See 4.2.17 of Niall Machin's Proof – NR PoE NM 9.2

<sup>43</sup> INQ/12

<sup>44</sup> NR PoE NM 9.2

<sup>45</sup> NR PoE AL 10.2

## Public Open Space

37. The Scheme requires the use of a number of areas of informal public open space which lie alongside the existing rail corridor. Special rules apply to the compulsory purchase of public open space, by virtue of section 19 of the Acquisition of Land Act 1981. Network Rail has made requests for certificates under s.19(1)(a) and s.19(1)(b) of the 1981 Act. In the former case (which applies to the majority of the open space affected by the Order), Network Rail has provided for the acquisition and giving in exchange of other land within the Order limits which will be made available for the enjoyment of the public. In the latter case, in respect of certain small residual areas of very limited extent, Network Rail's case is that no exchange land is necessary.
38. None of the areas of public open space affected by these applications is in use as a fuel or field garden allotment. None forms part of a common. Each, therefore, is to be seen as land used by the public for informal recreation; and the proposed exchange land will maintain that function.
39. On 6<sup>th</sup> June 2021 the Secretary of State stated his intention to issue the certificates sought by Network Rail under section 19(1) of the 1981 Act. There is one outstanding objection to the applications, although we understand that that objector has not asked to appear at the inquiry. We submit that the objector neither shows, nor questions, that the proposed exchange land will fail to fulfil its intended purpose of providing equally advantageous informal recreational open space for the public. Network Rail's substantive assessment and justification for the adequacy of the proposed exchange land is stated in detail in chapter 20 of volume 2i (folder 2) of the ES "Public Open Space". Niall Machin gives evidence on the ecological issue raised in respect of Lady Wood.
40. Network Rail has entered into an option agreement to acquire the open space land required for the Scheme from Kirklees Council. Any trusts arising by virtue of that land being held by the Council for the public enjoyment have therefore already been extinguished.<sup>46</sup> The land remains in the Order, however, to ensure that it is acquired with a fully cleansed title,<sup>47</sup> as provided for by Articles 44(2) and 45(1) of the draft Order.

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<sup>46</sup> Pursuant to s.123(2B) of the Local Government Act 1972 as we understand that the Council has followed the prescribed procedures for the advertising and disposing of land comprising or forming part of open space.

<sup>47</sup> Pursuant to s.19(3)(b) of the Acquisition of Land Act 1981.

**Conclusion**

41. At the conclusion of the Inquiry, Network Rail will invite the Inspectors to recommend that the Order be made, and associated consents granted, to ensure that this much needed upgrade to this vital section of the North Transpennine railway can proceed.

Tim Mould QC

Jacqueline Lean

Landmark Chambers

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2 November 2021



## NETWORK RAIL INFRASTRUCTURE LIMITED (“NETWORK RAIL”)

### PROPOSED NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY) IMPROVEMENTS) ORDER

#### RESPONSE TO THE SECRETARY OF STATE’S STATEMENT OF MATTERS

The table below indicates where response to the matters set out in the Secretary of State’s Statement of Matters can be found in Network Rail’s evidence. This table will be updated during the course of the inquiry.

SECRETARY OF STATE’S STATEMENT OF MATTER	NETWORK RAIL’S RESPONSE
(1) The aims and objectives of, and the need for, the proposed Huddersfield to Westtown (Dewsbury) Improvements scheme (“the scheme”).	<p><b><u>STATEMENT MATTER 1</u></b></p> <ul style="list-style-type: none"> <li>• Statement of Case (<b>NR28</b>) – Sections 3 and 4.</li> <li>• Proof of Evidence of David Vernon (<b>NR/PoE/DV/1.2</b>) – Sections 3, 4, 6 and 10.</li> </ul>
(2) The main alternative options considered by NR and the reasons for choosing the preferred option set out in the Order.	<p><b><u>STATEMENT MATTER 2</u></b></p> <ul style="list-style-type: none"> <li>• Statement of Case (<b>NR28</b>) – Sections 4 and 6.</li> <li>• Proof of Evidence of David Vernon (<b>NR/PoE/DV/1.2</b>) – Sections 7.</li> <li>• Proof of Evidence of Graham Thomas (<b>NR/PoE/GT/2.2</b>) – Section 3.</li> <li>• Proof of Evidence of Mike Pedley (<b>NR/PoE/MP/3.2</b>) – Section 4.</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
<p><b>(3) The likely impact of the exercise of the powers in the proposed TWA Order on local businesses, tenants and occupiers.</b>  <b>Consideration under this heading should include:</b></p> <p><b>(a) the impacts on access to and within the area, including the effects on local road networks, private roads, access to businesses and loss of car parking facilities;</b></p>	<p><b><u>STATEMENT MATTER 3(A)</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Nigel Billingsley (NR/PoE/NB/5.2) – Section 6.</li> <li>• Proof of Evidence of Mike Pedley (NR/PoE/MP/3.2) – Sections 4, and 6-9.</li> <li>• Proof of Evidence of Graham Thomas (NR/PoE/GT/2.2) – Section 3.</li> <li>• Proof of Evidence of Chris Williams (NR/PoE/CW/11.2) – Sections 3 and 4.</li> <li>• Proof of Evidence of Graham Foulkes (NR/PoE/GF/7.2) – Sections 3 and 4.</li> </ul>
<p><b>(3) The likely impact of the exercise of the powers in the proposed TWA Order on local businesses, tenants and occupiers.</b>  <b>Consideration under this heading should include:</b></p> <p><b>(b) health and safety and security implications for local businesses.</b></p>	<p><b><u>STATEMENT MATTER 3(B)</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Mike Pedley (NR/PoE/MP/3.2) – Sections 4, and 6-9.</li> <li>• Proof of Evidence of Graham Thomas (NR/PoE/GT/2.2) – Section 3.</li> <li>• Proof of Evidence of Jim Pearson (NR/PoE/JP/8.2) – Sections 5 and 6.</li> <li>• Proof of Evidence of Adam Lawrence (NR/PoE/AL/10.2) – Sections 4 and 5.</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
<p><b>(4) The potential effects of the scheme on cycling and walking and the normal and safe operation of Huddersfield Bus Station on tenants and/or users of the Bus Station during the construction including the impacts on local bus services in the area.</b></p>	<p><b><u>STATEMENT MATTER 4</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of David Vernon (<b>NR/PoE/DV/1.2</b>) – Section 3, 9.</li> <li>• Proof of Evidence of Graham Thomas (<b>NR/PoE/GT/2.2</b>) – Section 3.</li> <li>• Proof of Evidence of Graham Foulkes (<b>NR/PoE/GF/7.2</b>) – Sections 3 and 4.</li> <li>• Proof of Evidence of Nigel Billingsley (<b>NR/PoE/NB/5.2</b>) – Section 6.</li> </ul>
<p><b>(5) The effects of the scheme on statutory undertakers, statutory utilities and other utility providers, and their ability to carry out their undertakings effectively, safely and in compliance with any statutory or contractual obligations and the protective provisions afforded to them.</b></p>	<p><b><u>STATEMENT MATTER 5</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Nigel Billingsley (<b>NR/PoE/NB/5.2</b>) – Section 6.</li> </ul>
<p><b>(6) The impacts of the scheme on other development proposals in the local Dewsbury area.</b></p>	<p><b><u>STATEMENT MATTER 6</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Tony Rivero (<b>NR/PoE/TR/4.2</b>) – Section 8.</li> <li>• Proof of Evidence of Graham Thomas (<b>NR/PoE/GT/2.2</b>) – Section 3.</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
<p><b>7. The adequacy of the Environmental Statement submitted with the application for the TWA Order, having regard to the requirements of the Transport and Works (Application and Objections Procedure) (England and Wales) Rules 2006. This should include consideration of:</b></p> <ul style="list-style-type: none"> <li>• the impacts of noise and vibration;</li> <li>• the impacts of the scheme on air quality; and</li> <li>• the impacts of the scheme on climate change</li> </ul>	<p><b><u>STATEMENT MATTER 7</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Jim Pearson (<b>NR/PoE/JP/8.2</b>) – Sections 4 and 6.</li> <li>• Proof of Evidence of Adam Lawrence (<b>NR/PoE/AL/10.2</b>) – Section 4.</li> <li>• Proof of Evidence of Katie Rees-Gill (<b>NR/PoE/KR-G/6.2</b>) – Section 4.</li> <li>• Proof of Evidence of Niall Machin (<b>NR/PoE/NM/9.3</b>) – Section 4.</li> </ul>
<p><b>(8) The justification for the disapplication of legislative provisions, in particular flood risk activity and the surrender of existing environmental permits and what agreements have been reached with the Environment Agency in that regard.</b></p>	<p><b><u>STATEMENT MATTER 8</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Jim Pearson (<b>NR/PoE/JP/8.2</b>) – Sections 6, 8 and 9.</li> </ul>
<p><b>(9) The extent to which the scheme is consistent with the National Planning Policy Framework, relevant national transport policy, and relevant local planning, transport and environmental policies including the West Yorkshire Carbon Emission Reduction Pathways and Kirklees Council's 2038 Carbon Neutral Vision.</b></p>	<p><b><u>STATEMENT MATTER 9</u></b></p> <ul style="list-style-type: none"> <li>• Statement of Case (<b>NR28</b>) – Section 5.</li> <li>• Proof of Evidence of Tony Rivero (<b>NR/PoE/TR/4.2</b>) – Sections 4, 5 and 6.</li> <li>• Proof of Evidence of David Vernon (<b>NR/PoE/DV/1.2</b>) – Section 5.</li> <li>• Proof of Evidence of Jim Pearson (<b>NR/PoE/JP/8.2</b>) – Section 6.</li> <li>• Proof of Evidence of Katie Rees-Gill (<b>NR/PoE/KR-G/6.2</b>) – Section 4.</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
<p><b>(10) Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the MHCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" published on 29 October 2015 (as amended on 28 February 2018):-</b></p> <p><b>(a) whether there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use land for the purposes of the scheme.</b></p>	<p><b><u>STATEMENT MATTER 10(A)</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Nigel Billingsley (NR/PoE/NB/5.2) – Sections 2 and 7.</li> <li>• Proof of Evidence of David Vernon (NR/PoE/DV/1.2) – Section 3, 3.</li> </ul>
<p><b>(10) Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the MHCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" published on 29 October 2015 (as amended on 28 February 2018):-</b></p> <p><b>(b) whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to Article 1 of the First Protocol to the European Convention of Human Rights).</b></p>	<p><b><u>STATEMENT OF MATTER 10(B)</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Nigel Billingsley (NR/PoE/NB/5.2) – Sections 2 and 7.</li> </ul>
<p><b>(10) Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the MHCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" published on 29 October 2015 (as amended on 28 February 2018):-</b></p>	<p><b><u>STATEMENT OF MATTER 10(C)</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Nigel Billingsley (NR/PoE/NB/5.2) – Sections 2 and 7.</li> <li>• Proof of Evidence of David Vernon (NR/PoE/DV/1.2) – Sections 4, 5 and 6.</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
(c) whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding.	
<p>(10) Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the MHCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" published on 29 October 2015 (as amended on 28 February 2018):-</p> <p>(d) whether all the land and rights over land which NR has applied for is necessary to implement the scheme.</p>	<p><b><u>STATEMENT OF MATTER 10(D)</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Nigel Billingsley (NR/PoE/NB/5.2) – Section 3.</li> </ul>
(11) The conditions proposed to be attached to the deemed planning permission for the scheme.	<p><b><u>STATEMENT MATTER 11</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Tony Rivero (NR/PoE/TR/4.2) – Section 9.</li> </ul>
(12) Whether all statutory procedural requirements have been complied with.	<p><b><u>STATEMENT MATTER 12</u></b></p> <ul style="list-style-type: none"> <li>• Network Rail's Compliance Pack - Submitted on behalf of Network Rail in support of confirmation of compliance with statutory formalities (NR/INQ/4).</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
(13) Any other matters which may be raised at the inquiry which may be important and relevant to the Secretary of State's decision.	<p><b><u>STATEMENT MATTER 13</u></b></p> <p><i>To be updated by Network Rail where any such matters arise during the course of the Inquiry.</i></p>
(14) The extent to which the proposed works affecting the Listed Buildings ("the works") are in accordance with the development plan for the area including any 'saved policies'.	<p><b><u>STATEMENT MATTER 14</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Katie Rees-Gill (NR/PoE/KR-G/6.2) – Section 4.</li> <li>• Proof of Evidence of Tony Rivero (NR/PoE/TR/4.2) – Section 6.</li> </ul>
(15) The weight that should be attached to the development plan and any emerging plans.	<p><b><u>STATEMENT MATTER 15</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Tony Rivero (NR/PoE/TR/4.2) – Section 6.</li> </ul>
(16) The extent to which the works would accord with the heritage and other provisions of the National Planning Policy Framework and in particular the desirability of sustaining or enhancing the character or appearance of the heritage assets.	<p><b><u>STATEMENT MATTER 16</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Katie Rees-Gill (NR/PoE/KR-G/6.2) – Section 4.</li> <li>• Proof of Evidence of Tony Rivero (NR/PoE/TR/4.2) – Section 6.</li> </ul>
(17) If consent for the works is granted, the need for any conditions to ensure they are carried out in a satisfactory manner.	<p><b><u>STATEMENT MATTER 17</u></b></p> <ul style="list-style-type: none"> <li>• Proof of Evidence of Katie Rees-Gill (NR/PoE/KR-G/6.2) – Section 4.</li> </ul>

SECRETARY OF STATE'S STATEMENT OF MATTER	NETWORK RAIL'S RESPONSE
<p><b>(18) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, Open Space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied— (a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased.</b></p>	<p><b><u>STATEMENT MATTER 18</u></b></p> <ul style="list-style-type: none"> <li>• Environmental Statement – Volume 2i: Scheme-wide Assessment – Chapter 20 – Public Open Space (<b>NR16A</b>).</li> <li>• Statement of Case – Section 9, Page 166 (<b>NR28</b>).</li> </ul>
<p><b>(19) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, Open Space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied— (b) that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.</b></p>	<p><b><u>STATEMENT MATTER 19</u></b></p> <ul style="list-style-type: none"> <li>• Environmental Statement – Volume 2i: Scheme-wide Assessment – Chapter 20 – Public Open Space (<b>NR16A</b>).</li> <li>• Statement of Case – Section 9, Page 166 (<b>NR28</b>).</li> </ul>
<p><b>(20) For the purposes of this application 250 square yards is considered the equivalent of 209m<sup>2</sup></b></p>	<p><b><u>STATEMENT MATTER 20</u></b></p> <ul style="list-style-type: none"> <li>• Environmental Statement – Volume 2i: Scheme-wide Assessment – Chapter 20 – Public Open Space (<b>NR16A</b>).</li> <li>• Statement of Case – Section 9, Page 166 (<b>NR28</b>).</li> </ul>



