

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

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### CLOSING SUBMISSIONS ON BEHALF OF NETWORK RAIL

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#### **Overview – the case for the Order**

1. The case for making the Transport and Works Act 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, it 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. That was its purpose. During the second half of the twentieth century, however, the railway fell victim to the prevailing transport policy of the time, with the capacity of the railway reduced and a long period of disinvestment.
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. The Transpennine Route Upgrade ("TRU") is a pressing national, regional and local objective. If levelling up is to happen, the TRU must be delivered. The Order scheme ("the Scheme") is critical to the delivery of the TRU.
4. The need for timely delivery of the Scheme has gathered yet greater urgency following publication of the Government's Integrated Rail Plan (INQ/33), for the reasons given in INQ/32. The Scheme aligns with the strategic objectives of the IRP (paragraph 2.27). The Scheme now forms a key element of the Government's preferred route for Northern Powerhouse Rail Phase 1 which incorporates the TRU as the quickest and most cost-effective route to delivering close to a 30 minute Manchester-Leeds journey time (IRP paragraphs 3.78-3.79). The Government's position in IRP paragraph 3.82 is that this approach will deliver IRP strategic objectives and benefits sooner, including decarbonisation of the key Transpennine corridor.

5. The Statement of Aims for the Scheme (NR04), and the case for the Scheme as detailed in sections 3 and 4 of Network Rail's Statement of Case (NR28) and as evidenced in David Vernon's proof of evidence (NR/PoE/DV/1.2), are reinforced by the Government's confirmation of the primacy of the TRU as a key element of the IRP strategy. Section 6 of the Statement of Case (NR28) and the detailed engineering evidence in section 3.1 (pages 8-45) given by Graham Thomas in his proof of evidence (NR/PoE/GT/2.2), explain and justify the need for the scheduled works proposed by the Order, to enable and deliver the journey time, capacity and performance improvements between Huddersfield and Westtown that are essential to achieving the performance outputs for the TRU Programme; performance outputs that are now integral to the IRP strategy for NPR Phase 1. Funding has been committed by Government.<sup>1</sup>
6. In particular, the Order is necessary to empower the delivery of –
  - (1) Four tracking along this section of the Transpennine Route, which is the best location to York and Manchester for fast trains to overtake slow trains and to regulate services, thereby allowing a workable timetable to support the ITSS.
  - (2) Grade separation at Ravensthorpe to deconflict train service patterns between Heaton Lodge Junction and Thornhill Junction, to allow fast services to overtake slow services and freight trains impeded by flat junction arrangements.
  - (3) The re-modelling and improvement of Huddersfield Station to provide additional operational flexibility and resilience to operate the ITSS.
  - (4) Electrification of the railway in furtherance of Network Rail's decarbonisation objectives.
7. See Graham Thomas's proof at paragraphs 3.1.5-3.1.18 and his summary of key alternatives considered and engineering decisions at paragraphs 3.1.87-3.1.94.
8. There has been no challenge advanced at the public inquiry to the core transport planning, engineering and operational case for the Scheme as presented by David Vernon and Graham Thomas in their evidence. Nor has there been any challenge at the public inquiry to the economic case for the Scheme as presented by David Vernon in his evidence.

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<sup>1</sup> See the Funding Statement (Core Doc NR06)

9. There has been no challenge to the need for the scheduled works which are the principal purpose of the Order to deliver the engineering improvements explained in detail by Graham Thomas in his evidence (and as regards highway improvements, by Chris Williams in his evidence (NR/PoE/CW/11.2)). These scheduled works found the requirement for powers of compulsory purchase of the lands within Order limits under article 26 of the Order. The requirement for those lands has not been questioned in the evidence heard by the public inquiry.

***A compelling case***

10. None of the remaining objections from landowners and occupiers affected by powers of compulsory purchase or temporary possession seriously question the need for their land for the purposes of construction and/or operation of the works for which the Order seeks powers. There has been no challenge advanced at the public inquiry to the construction management arrangements proposed by Mike Pedley in his evidence (NR/PoE/MP/3.2), which found the requirement for the powers of entry and temporary possession of land under article 34 of and schedule 16 to the Order. The focus of those remaining objections is rather upon securing commitments from Network Rail to accommodate or to mitigate the impact of the acquisition or temporary possession of their land to enable the delivery and operation of the Scheme. As the updated Status Schedule (INQ/3A) records, Network Rail has now offered commitments to all remaining objectors affected by compulsory purchase powers under the Order. The purpose of those commitments is to accommodate those objectors' concerns as far as reasonably practicable, whilst maintaining Network Rail's ability to deliver the Scheme under the powers conferred by the Order in a timely and economic way.
11. The TRU, and the Scheme, command clear support both in national, regional and local transport and planning policy. See section 5 of the Statement of Case (NR28) and the proof of evidence of Tony Rivero (NR/PoE/TR/4.2). Consistently with their published and adopted planning policies, both Kirklees Council and West Yorkshire Combined Authority support the Scheme and the Order.<sup>2</sup>
12. As we submitted in opening, much of the land required to deliver the Scheme is already within Network Rail's ownership or control. The case for compulsory purchase of the further land and rights is essentially to widen the existing rail corridor for the construction and

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<sup>2</sup> See INQ/20, INQ/21 and INQ/21a

operation of the Scheme to modern rail engineering and safety standards, and to satisfy modern standards of environmental design and mitigation. For the reasons we have summarised, that case is compellingly in the public interest. As we conclude the public inquiry, the position 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. Around 750 legal entities with an interest in land are affected by the Scheme. The lack of sustained objection advanced in evidence at the public inquiry and the very limited number of remaining objections on paper lend further force to the case for the Scheme to be authorised to proceed. The message is clear and compelling. The Scheme is needed – and is needed now.

13. The existing railway line is of historic significance as it dates back to the early years of railway construction – the so called “pioneering” and “heroic” ages. In order to deliver the engineering and operational improvements to the railway to realise the aims of the Scheme, it is necessary to undertake works to nine listed buildings which form part of the existing railway; principally to the Grade 1 listed Huddersfield Station, but also to Huddersfield Viaduct and to seven further bridges and viaducts which form part of the Order route. The works in question form the subject matter of the applications for listed building consent. The context and justification for those works, which include the demolition of two bridges, may be simply stated. The purpose of the Scheme is 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. Those changes inevitably affect the significance of that historic fabric and when measured in planning policy terms are acknowledged to be harmful. However, in the case of each listed building that is the subject of an application for consent, the heritage assessment carried out in support of that application provides a detailed justification for the need for those works; and that the harm to significance that will result from them is justified in order to realise the public benefits that the Scheme will deliver. Neither Historic England nor Kirklees Council has disputed that justification. Nor has any other party appeared before the inquiry to dispute it. The impact of the proposed works of demolition and alteration have been assessed and shown to be necessary in order to achieve the functional and operational improvements that must be secured, if the railway is to continue to fulfil the purposes which those who first built those structures long ago 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.

### **Statement of Matters**

14. These Closings Submissions are now structured by reference to the Statement of Matters issued on 29 September 2021, with the remaining objections addressed thereafter. We rely also on Annex 1 to our Opening Statement (INQ/1) which responded to the Statement of Matters with cross references to the written evidence of NR witnesses and other evidence drawn from the Environmental Statement. We have focused our submissions below on those matters that were raised orally during the inquiry.

### ***Issue (i): The aims and objectives of, and need for, the Scheme***

15. The aims and objectives of the Scheme are stated in the Statement of Aims (NR04) and in further detail in sections 3 and 4 of the Statement of Case (NR28) and David Vernon’s proof of evidence.
16. The line between Huddersfield and Westtown is currently a key constraint on the capacity, efficiency of operation and resilience of the North Transpennine Route (NTPR). The engineering improvement works to be authorised by this Order will unlock that constraint. The Order will also take forward Network Rail’s programme of electrification, a step forward in the progressive decarbonisation of the rail network.
17. As set out in section 6.2 of David Vernon’s proof, the Government is committed to “levelling up” communities across the country, including in the North. Investment in infrastructure plays a key part of that agenda.<sup>3</sup>
18. The NTPR can be, and has been, identified as a catalyst for “levelling up” economic opportunity and travel experience in the North. It is not currently well-placed to perform that role. To the contrary: it is currently a “brake” on those key government ambitions.<sup>4</sup>

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<sup>3</sup> See, for example the National Infrastructure Strategy (Core Doc NR31) discussed at 6.2.1 – 6.2.3 of DV’s PoE

<sup>4</sup> DV PoE para 6.5.1

19. As David Vernon details in section 3.4 of his proof, pre COVID-19, demand on the route had doubled to 50 million journeys per year since the mid-1990s,<sup>5</sup> but the historic reduction in the carrying capacity of the infrastructure<sup>6</sup> meant the route had reached the practical limit of its capacity. Punctuality on the route was also very poor with only 38% of trains 'On Time'<sup>7</sup> – compare and contrast with other major rail lines such as WCML and ECML that had On Time performance scores of 57% and 65% respectively – and a Public Performance Measure (PPM)<sup>8</sup> across the 4 core stations of York, Leeds, Huddersfield and Manchester of less than 75%.<sup>9</sup> Whilst demand has reduced during the pandemic, as David Vernon set out in his evidence,<sup>10</sup> the growth projection scenarios from DfT indicate that demand will be back to pre-pandemic levels before the Scheme is built. Figure 3.7 of David Vernon's proof *"demonstrates that the Scheme will be needed, is still needed now, and will be needed in the future, regardless of what scenario plays out"*.<sup>11</sup>
20. The Scheme Route is a key contributor to the problems currently experienced on the NTPR. The Scheme route has numerous points of movement conflict (with three at-grade junctions); a busy regional interchange station at Huddersfield Station (which adds further conflicting train paths) and very limited ability to regulate train services to overcome those conflicts or recover from a late running timetable (being a predominantly two-track railway with no passing loop in the Down direction).<sup>12</sup> The delays which result from issues arising within the Route Scheme can have significant knock-on effects on the wider network. It presents a real obstacle to any service improvements on the NTPR, as demonstrated by the decline in overall performance observed with the introduction of the enhanced timetable in May 2018.<sup>13</sup> The Scheme Route is a bottleneck on the NTPR which must be addressed. The Scheme does so.
21. 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,

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<sup>5</sup> Provided by 3 operators – Transpennine Express (TPE), Northern Rail, and Grand Central (see DV PoE para 3.13). The route also supports freight services, with around 5 a day in each direction.

<sup>6</sup> Discussed in our Opening Submissions at para 2 and DV PoE paras 3.1.2-3

<sup>7</sup> Making station calls within a minute of the scheduled time

<sup>8</sup> 0-5 mins delays

<sup>9</sup> See para 3.19. of GT's PoE.

<sup>10</sup> XIC Day 1. See also section 5 of his PoE; para 1.2 of INQ/32 (NR Note on the Integrated Rail Plan and the Order Application) and para 2.7 of the Integrated Rail Plan (INQ/33)

<sup>11</sup> DV XIC Day 1

<sup>12</sup> GT PoE 3.1.8 – 3.1.10

<sup>13</sup> Discussed in GT's PoE at 3.1.9.

Huddersfield, Leeds and York, the purpose of which is to improve journey times and capacity between key destinations on the NTPR and to improve the overall reliability and resilience of that railway. Whilst the Scheme comprises only one part of that wider programme, it is a critical part. The constraints discussed above must be addressed if the significant benefits of the TRU are to be realised.

22. The TRU aims to deliver:

- (i) An improved journey time for Leeds-Manchester Victoria of 42 mins;
- (ii) An improved journey time for York – Manchester Victoria of 67 mins;
- (iii) Capability to operate 8 ‘express services’ an hour on the route;
- (iv) Capability to operate 4 ‘local services’ an hour on the route;
- (v) PPM of the NTPR to be 92.5% or higher each period;
- (vi) Freight paths / rights to be retained as existing; and
- (vii) A contribution to Network Rail’s Decarbonisation Strategy and climate policy.

23. David Vernon summarises at 4.2.1 of his PoE how the Scheme contributes to, or delivers on, those aims (this is addressed in more detail at paras 28-44 below):

- (i) The Scheme delivers on the journey time improvement aims through the provision of dedicated fast lines; increased fast running speeds of 100mph; and electrification throughout the Scheme Route;
- (ii) The Scheme delivers on the capacity improvements through the provision of a four-track railway throughout the Scheme Route; removing conflicting train movements at Ravensthorpe through the provision of a grade separated junction; improving train movement capacity at Huddersfield Station through the provision of additional platform capacity and track layouts; relocating ‘express services’ to the new fast lines; and improving the capacity of local stations at Deighton, Mirfield and Ravensthorpe;
- (iii) The Scheme delivers on the reliability improvement by removing the existing bottleneck through the provision of a four-track railway and the electrification of the line throughout the Scheme Route; removing conflicting train movements at

Ravensthorpe, and providing upgraded modern railway equipment<sup>14</sup> throughout the Scheme Route;

- (iv) The Scheme delivers on the freight capacity aim by removing the existing bottleneck through the provision of a four-track railway, allowing for the relocation of ‘express’ services to the new fast lines and for freight to run on the slow lines with the ‘stopper’ passenger services;
- (v) The Scheme contributes to Network Rail’s Decarbonisation Strategy and climate policy by delivering the electrification of the railway throughout the Scheme Route.

24. The Scheme is essential to achieving the overall TRU aims outlined above. The lack of available diversion routes, and historical performance issues encountered along the Scheme Route, mean that the Scheme is critical to the success of the TRU and the levelling up ambition. The importance of the Scheme is also apparent from the funding it has been allocated as a proportion of that made available for the whole TRU route: 50% of the funding being spent on a section of track than is less than 10% of the overall route.<sup>15</sup>

25. The need for this Scheme, and its importance to the levelling up agenda, has assumed perhaps even greater significance following the publication of the Government’s Integrated Rail Plan on 18 November 2021. The TRU is to be *“significantly expanded to enable NPR”*, and is to be managed as the *“first phase”* of NPR.<sup>16</sup> It is one of the *“core pipeline of commitments”* set out in the IRP,<sup>17</sup> and under the direction of IRP and DfT, TRU will become Northern Powerhouse Rail Phase 1.<sup>18</sup> In the current TRU programme, the Order Scheme is the only section of track due to be upgraded to 4 tracks, reflecting the criticality of this part of the route in managing capacity and performance. As set out at paragraph 3.5 of INQ/32, *“With the further improvements planned through IRP for the Manchester – Leeds section, and further afield, it is even more important now that the works proposed as part of the Scheme are delivered as quickly as possible.”*

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<sup>14</sup> As DV sets out at 3.4.4 of his PoE, within the Scheme Route the primary reason behind performance and delay impacts has been due to track and train detection issues, accounting for over 70% of the incidents that occur.

<sup>15</sup> DV PoE para 4.2.3

<sup>16</sup> IRP Executive Summary page 14

<sup>17</sup> Page 31

<sup>18</sup> See INQ/32 at para 3.5.



26. The unchallenged evidence before the public inquiry is that the Scheme is needed, and is needed now.

***Issue (ii): The justification for the particular proposals in the draft Order, including the anticipated transportation and environmental benefits***

27. See the evidence of David Vernon (benefits), Graham Thomas (engineering) and Jim Pearson (environment). See also section 6 and appendix B of the Statement of Case (NR28). The Order would provide Network Rail with the necessary powers to construct, operate and maintain an improved railway between Huddersfield and Westtown (Dewsbury), including the upgrade and reconstruction of the existing railway, railway electrification works, improvements to Huddersfield Station, and works of construction, or reconstruction, to stations at Deighton, Mirfield and Ravensthorpe.
28. In short, 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 NTPR and Brighouse-Wakefield (Calder Valley) route crosses at grade;
  - (iii) An increased platform capacity 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; and
  - (vi) Electrification of this section of the North Transpennine Route.

29. The principal interventions are helpfully shown at Figure 7-2 of the Statement of Case (NR28).
30. During his oral evidence on Day 1 of the inquiry, Graham Thomas provided an overview of the proposed works along the Scheme Route.<sup>19</sup> He explains those works in detail in section 3 of his proof of evidence. We summarise the main elements below, with reference to the TRU aims they will help to deliver.

*Route Section 1: Huddersfield*

31. The Scheme works commence to the west of Huddersfield Station at Cross Church Street. Before reaching Huddersfield Station, the works are primarily associated with OLE installation, with significant works within the Gledholt and Huddersfield Tunnels (including full track and drainage renewals, with horizontal and vertical track realignment to allow for OLE clearances to existing tunnel walls) to facilitate the same. W12 gauge clearance<sup>20</sup> will be retained.
32. At Huddersfield Station, a Grade 1 listed building<sup>21</sup>, works for 4-tracking of the railway will commence. A new platform and track layout are proposed, which, together with new signalling arrangements will allow for deconfliction of services passing through and stopping at the station. The three existing through platforms will be increased to four. A new island platform will be built to the north west side of the station which provides the additional through platform and a long terminus platform facing the Leeds direction. These works are discussed in detail in paras 3.1.70 – 3.1.86 of Graham Thomas's proof.
33. Access across the station will be enhanced, with the existing subway extended to serve the new platforms and a new footbridge at the Leeds end of the station. Both the subway and footbridge can be extended in the future, if a proposal to open up a new station access from St George's Quarter comes forward, as explained by Graham Thomas in his XIC on Day 1.<sup>22</sup>

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<sup>19</sup> These are also detailed in Section 7 of the Statement of Case (NR28) and the Planning Statement (NR04).

<sup>20</sup> Required for freight.

<sup>21</sup> See NR85 pg 150 and the heritage assessment submitted with the application for listed building consent (NR17).

<sup>22</sup> See also INQ/29 for the proposed extension to the subway and for the passive provision which would enable a further extension in the future.

34. The Grade II listed Huddersfield Viaduct<sup>23</sup> is located immediately to the east of the station. Historically, this carried 5 tracks, and therefore reinstatement of the 4 tracks can be carried out largely within the confines of the existing structure. Significant works will be required to repair or strengthen the structure to carry the modified track arrangement (including the replacement of the metallic spans over Bradford Road), with a new widened span over John William Street to accommodate the modified track and platform arrangements at the station which extend over the bridge. This is discussed in more detail in paras 3.2.7 – 3.2.18 of Graham Thomas’s proof.

*Route Section 2: Hillhouse to Fartown*

35. The railway works within this section are generally contained within the existing railway boundaries, with a 4-track formation being reinstated within the historic 4-track corridor. The existing two tracks (which will become the slow lines) are re-aligned to the north of the existing corridor as a result of remodelling works to Deighton Station (discussed below). This will require the replacement of part of Ridings Underbridge, as the current metallic 3-span structure to the north is not wide enough to accommodate the realigned tracs. Similarly, a new bridge deck will be required at Red Doles Road Underbridge to re-provide the two tracks forming the new fast lanes. A new footbridge structure is also required at Field House Overbridge, the current bridge being too low to allow for the OLE equipment required for the electrification of the line.
36. Hillhouse sidings will be used as a principal construction hub, and a temporary platform will be constructed on site to facilitate turnback train services from the Leeds Bradford and Halifax directions during periods when Huddersfield Station is closed for Scheme works.<sup>24</sup> Permanent stabling sidings will be provided on the site to replace the sidings that will be lost at Huddersfield Station as a result of the platform remodelling works summarised above.

*Route Section 3: Deighton and Bradley*

37. The railway works in this area generally comprise the re-instatement of 4 tracks within the historic corridor. The 4 tracks would, however, displace the existing platforms and access ramps at Deighton Station, which will therefore be reconstructed with two platforms serving

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<sup>23</sup> See NR85 pg 152 and the heritage assessment submitted with the application for listed building consent (NR 18).

<sup>24</sup> As GT confirmed in his evidence on Day 1, a bus connection will be provided from Huddersfield Station. It will not be possible to board or alight from train services at the sidings other than via that connection.

stopping services on the slow lines and no platforms on the new through fast lines. The existing Whiteacre Street overbridge will also be replaced: the span beneath the existing abutment walls is not wide enough for the proposed 4 track railway, and reconstructed platforms, and the bridge deck too low for OLE equipment to pass beneath. The A62 Leeds Road Overbridge will also be replaced: again, it is not wide enough for the realigned 4 track railway to pass under at the proposed design speeds, and the bridge deck is too low to accommodate the OLE equipment. Similarly, despite extensive exploration of options to retain all, or part, of the structure, the Grade II listed Wheatley's Overbridge will also have to be replaced, as the existing arch spans are not wide or high enough to accommodate the realigned 4-track railway and OLE equipment<sup>25</sup>.

38. As part of the works, Bradley Junction will be reconfigured to allow for higher line speed through the junction, and realigned slightly to the north to facilitate the new fast track geometry to the south.

*Route Section 4: Colne Bridge and Battysford*

39. From Bradley Junction to the Colne River valley crossing, the railway works are constrained within the historic 4-track footprint of the railway. Immediately beyond the Colne Viaduct Underbridge, the proposed fast lines start to diverge from the existing railway corridor. The fast lines are then taken on a new alignment, bypassing the existing Heaton Lodge curve and junction layout. The geometry of this new alignment will enable trains to run at 100mph on the fast lines in this section, in contrast with the speed constraints imposed by the rail geometry of the current Heaton Lodge curve.<sup>26</sup> The slow lines will continue to use the existing rail alignment, with works to the existing line generally limited to those required for OLE.
40. Beyond Heaton Lodge Junction, the railway works involve the provision of a single line within the existing railway corridor (currently three tracks).
41. As part of the works in this area, it will be necessary to demolish the central spans of the Grade II listed Colne Bridge Road Overbridge (which carries the B6118 over the railway) and

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<sup>25</sup> See NR85 pg 160 and the heritage assessment submitted with the application for listed building consent (NR 19).

<sup>26</sup> See GT's proof at 3.2.38-3.2.40

replace them with a new single span. The existing arches of the bridge are not wide or high enough to accommodate the 4 track railway and OLE equipment<sup>27</sup>.

*Route Section 5: Mirfield and Lower Hopton*

42. The railway works in this area generally involve a fourth line been added to the current 3-track layout within the existing railway corridor. Mirfield Viaduct (a Grade II listed structure) will be strengthened to accommodate the higher speeds on the fast lines, and OLE equipment installed<sup>28</sup>. OLE equipment will also be installed on River Calder (Wheatley's Underbridge (also a Grade II listed structure)<sup>29</sup>. Mirfield Station will be reconfigured to serve the two slow lines from an extended island platform with no platforms on the through fast lines, and the current loop-line platform removed to make way for the two new fast lines.

*Route Section 6: Ravensthorpe and Westtown*

43. A new grade-separated junction will be constructed in this section of the route, carrying the new fast lines over the Up slow line<sup>30</sup> and the Wakefield lines. This removes a critical conflict point on the NTPR. This new flyover intersection will require the replacement of the existing Calder Road Bridge to the west, as it is too low to accommodate the new fast lines with OLE equipment. It will also be necessary to relocate Ravensthorpe Station due to the land footprint required for the grade-separated geometry. A new Ravensthorpe Station will be provided approximately 200m to the west of its existing location, with one island platform to serve the slow lines and no platforms on the through fast lines. This will place the station in a much improved location which complements the major housing allocation at Dewsbury Riverside; and open up new opportunities for future trains services to call at Ravensthorpe and then towards Wakefield, which Network Rail understands to be an aspiration for external stakeholders including Kirklees Council and WYCA.<sup>31</sup> The railway will revert to its two track formation at a new junction to the east of the relocated station and the new Baker Viaduct, at the new Ravensthorpe East Junction.<sup>32</sup> Works are required to the listed

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<sup>27</sup> See NR85 pg 163 and the heritage assessment submitted with the application for listed building consent (NR 20).

<sup>28</sup> See NR85 pg 173 and the heritage assessment submitted with the application for listed building consent (NR21).

<sup>29</sup> See NR85 pg 177 and the heritage assessment submitted with the application for listed building consent (NR 22).

<sup>30</sup> i.e. The existing line towards Manchester

<sup>31</sup> GT PoE paras 3.4.17 – 19.

<sup>32</sup> Discussed at GT PoE paras 3.1.57 – 3.1.65.

Occupation Underbridge<sup>33</sup>, the listed Toads Hole Underbridge<sup>34</sup> and the listed Mings Underbridge<sup>35</sup>. OLE will also be installed through this section of the route.

44. It is demonstrably the case and not in dispute on the evidence that these engineering works included within the Scheme are necessary to achieve the objectives discussed under matter 1 above. The improvements in journey time, capacity and reliability simply cannot be achieved without the engineering interventions included within the Order. Electrification of the route will materially contribute to Network Rail's Decarbonisation and climate policy. As David Vernon explains at para 3.6.2 of his proof, in the context of the UK's Net Zero by 2050 commitment, DfT's Transport Decarbonisation Plan and Network Rail's Traction Decarbonisation Network Strategy, the design of TRU has been informed by an aspiration to electrify as much of the route for traction purposes as possible. Alongside modal shift encouraged by more reliable and frequent passenger trains, TRU aims to make a strong contribution to the Net Zero agenda, as the largest rail enhancement in the current portfolio.<sup>36</sup> The Scheme would electrify this entire section of the NTPR and provide critical upgrades needed if that modal shift is to be encouraged.

***Issue (iii): The main alternative options considered by Network Rail and the reasons for choosing the proposals included in the Scheme***

45. The remit of the TRU is to address performance issues related to the existing services, to increase the capacity on the NTPR and to decrease journey times. Other strategic alternatives considered are discussed in paragraphs 3.3.1 – 3.3.17 of Chapter 3 of Volume 2(i) of the ES<sup>37</sup> and in section 4.4 of the Statement of Case.<sup>38</sup> In short, there are no high level strategic alternatives that would deliver those benefits without investing directly in the infrastructure.

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<sup>33</sup> See NR85 pg 194 and the heritage assessment submitted with the application for listed building consent (NR 23)

<sup>34</sup> See NR85 pg 195 and the heritage assessment submitted with the application for listed building consent (NR 24)

<sup>35</sup> See NR85 pg 197 and the heritage assessment submitted with the application for listed building consent (NR 25)

<sup>36</sup> The climate effects of the Scheme are also discussed in sections 6.10 and 6.11 of Jim Pearson's Proof (NR/PoE/JP/8.2) and in Chapter 17 of Volume 2(i) of the ES (NR 16A).

<sup>37</sup> NR16A

<sup>38</sup> NR28

46. Scheme design alternatives are considered at paragraphs 3.3.18 – 3.3.163 of Chapter 3 of Volume 2(i) of the ES, including alternatives for track layout, the location and nature of the grade separated junction at Ravensthorpe, affected heritage assets, OLE and construction compounds.
47. Graham Thomas set out in his evidence the consideration given to different options as the engineering design progressed from the end of GRIP 2; and how, during GRIP 3, he “*carried out a comprehensive Option Identification, Option Sifting and Option Selection process*” for the Scheme.<sup>39</sup> He detailed in his evidence, and documents in his Appendices,<sup>40</sup> the high level option selection around 4 key decision points in the engineering design: (i) the ordering of the fast and slow lines through the route section<sup>41</sup>; (ii) the location of the grade separation and type of vertical grade separation<sup>42</sup>; (iii) junction layout and operational functionality, particularly at either end of the 4-track sections at Huddersfield and Ravensthorpe Stations<sup>43</sup>; and (iv) the platform and track layout at Huddersfield Station<sup>44</sup>. That is in the context of a Scheme comprising an upgrade to an existing railway which has to be undertaken within an area of significant constraints – as detailed throughout Graham Thomas’s proof.
48. Mike Pedley has detailed in his evidence the main alternatives considered for the location of the construction compound to support the work to Huddersfield Station<sup>45</sup> and at Ravensthorpe;<sup>46</sup> options for construction methods to reduce impacts on affected business and/or for reconfiguration of businesses affected by construction works on site<sup>47</sup>; and the construction challenges associated with the grade separation options at Ravensthorpe.<sup>48</sup>

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<sup>39</sup> GT PoE 3.1.22 and 3.1.23. The same process was repeated across the whole TRU programme: see Appendix B to the SoC.

<sup>40</sup> The progression of the design, and option selection, can be followed through the various decision-making stages documented in Appendix B.

<sup>41</sup> GT PoE 3.1.17 – 3.1.43

<sup>42</sup> GT PoE 3.1.44 - 3.1.51; GT Rebuttal Proof to Objs 18-22, 29 section 2.2; GT second rebuttal proof sections 2.1 and 2.2.

<sup>43</sup> GT PoE 3.1.52 – 3.1.65; GT Appendix to Additional Rebuttal Proof

<sup>44</sup> GT PoE 3.1.66 – 3.1.87

<sup>45</sup> MP PoE paras 4.3.2-4.3.9 (NR/PoE/MP/3.2)

<sup>46</sup> MP PoE paras 9.4.3 – 9.4.4

<sup>47</sup> MP PoE paras 9.5.6 – 9.5.7 (Weaving Lane); MP rebuttal proof paras 2.1.2 – 2.1.3 (NR/PoE/MP/3.3) (closure of Calder Road); and MP PoE paras 9.3.6 – 9.3.9 (reconfiguration of the Newlay site), on which see now INQ/24 Calder Road – Design Refinement section 5.2.

<sup>48</sup> MP PoE Table 9-1.

49. In her evidence, Katie Rees-Gill has explained the assessment of impacts on significance, engagement with Historic England and Kirklees Council, design optioneering, mitigation and compensation and conservation management and implementation measures that have resulted in the design solutions that have been put forward for approval for works affecting the designated heritage assets directly affected and the historic environment indirectly affected by the Scheme.<sup>49</sup> She explained in detail in XIC on Day 6 the options which had been explored for the canopies at Huddersfield Station<sup>50</sup> and for the new footbridge; and the options which had been explored for retaining all or part of Colne Bridge Road Overbridge (MVL3/107)<sup>51</sup> and Wheatley's Colliery Lane Overbridge (MVL3/103)<sup>52</sup> before it was, reluctantly, concluded that the current bridges simply could not accommodate the upgrade to the railway, could not be altered to do so, and would have to be demolished and replaced in order for the Scheme to proceed. Further details on the options considered for each of the heritage assets can be found in the Heritage Assessment prepared for each asset<sup>53</sup> and Ch 3 of Volume 2(i) Route Wide of the ES.<sup>54</sup> See also the Heritage Assessment for the Calder and Hebble Underbridge and River Calder Underbridge (Appendix 6-5 to the ES in Vol 3 (NR 16B)) and the assessments included in Ch 6 of the Route Section assessment for Route Section 6 in Vol 2(ii) of the ES (NR16A).

***Issue (iv): The likely impact of the exercise of the powers in the proposed Order on local businesses, tenants and occupiers***

50. As we set out in Opening, 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. The historic 4-track formation and supporting infrastructure is still to a large degree complete and within Network Rail's ownership. However, construction of the scheduled and other works authorised by the Order for the purposes of delivering and operating the Scheme will have impacts on neighbouring landowners and occupiers. The

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<sup>49</sup> This is particularly evidenced in the Heritage Assessments for each of the assets for which listed building consent is sought: see NR17 – NR25.

<sup>50</sup> See also NR15A the Design and Access Statement for Huddersfield Station, sections 4 and 5.

<sup>51</sup> NR 20

<sup>52</sup> NR 19

<sup>53</sup> Included with the relevant listed building consent applications

<sup>54</sup> Huddersfield Station is considered at paras 3.3.52 – 3.3.65; Huddersfield Viaduct at paras 3.3.75 – 3.3.94; Wheatley's Overbridge at paras 3.3.104-3.3.108; Colne Bridge Road Overbridge at paras 3.3.109 -3.3.120; Occupation Underbridge at paras 3.3.129 – 3.3.133; and Mirfield Viaduct at paras 3.3.142 – 3.3.145.



construction of the Scheme will also involve some wider, more general impacts: in particular, those associated with the temporary closure or diversion of roads and rights of way, and/or traffic management measures whilst works are ongoing.

51. Throughout the design process, impacts on neighbouring property and land were a prime consideration, and there were many locations along the route where the option selection was informed by consideration of such impacts: see Graham Thomas's proof at 3.2.1. Network Rail has sought, and will continue to seek, to reduce those impacts so far as reasonably practicable to do so – as has been the case, for example, with the further design work undertaken in respect of the Calder Road Bridge realignment<sup>55</sup> which resulted in the Newlay objectors<sup>56</sup> considering they could withdraw their objections to the Scheme, and commitments which have been given to Huddersfield Town Association Football Club (Obj/38) that the construction compounds in proximity to their training field can be 'pulled in' so as to avoid intruding into their secure grounds or affecting either of their existing accesses.<sup>57</sup> Again, that objection has now been withdrawn.
52. The works authorised by the Scheme include modifications to the existing highway and public rights of way. The main engineering works to and design modifications of elements of the existing highway are considered in the proof of evidence of Chris Williams (NR/PoE/CW/11.2). The Order gives powers to alter and to stop up public rights of way, in the majority of cases only on provision of a specified alternative route<sup>58</sup>. 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 Chapter 14 of Vol 2(i) of the ES (NR16A) and in the Transport Assessment included as Appendix 14-1 in Vol 3 of the ES (NR16B). The Transport Assessment also includes consideration of the predicted disruption to the bus network as a result of closures and alternative bus routes to offset that disruption.<sup>59</sup>
53. These impacts will be controlled under the requirements of a comprehensive Code of Construction Practice which must be approved and operated under the conditions of the

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<sup>55</sup> See INQ/24: Calder Road – Design Refinement

<sup>56</sup> Obj 18-22, and 29

<sup>57</sup> See INQ/19

<sup>58</sup> Draft Order article 14 and schedule 4.

<sup>59</sup> Bus diversion routes are set out in the Transport Assessment (TA) in Volume 3 Appendix 14.1 (NR16B). See also GF PoE 4.3.7 – 4.3.13

deemed planning permission. A key element of that Code will be a comprehensive construction traffic management plan, prepared in close consultation with Kirklees Council as the local highway and traffic authority, and approved by them. These matters were addressed further by Graham Foulkes in his proof (NR/PoE/GF/7.2) and in his oral evidence. Mr Foulkes also addressed disruption associated with temporary diversions or closures of PROW during construction of the Scheme. These are detailed in Table 14-2 in Chapter 14 in Vol 2i of the ES. Mr Foulkes identified the ‘worst case’ temporary closure as that at Red Doles (Route Section 2), discussed in his proof at paras 3.3.11 and 3.3.13 and in the Transport Assessment in Table 8-1 and paras 8.5.2- 8.5.3.

54. Network Rail has been working closely with Kirklees Council to resolve the concerns it had raised regarding highway disruptions (and impacts on statutory waste functions). A detailed Statement of Common Ground has been agreed,<sup>60</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. A summary of the components of those side agreements is provided in INQ/25. Appendix 1 summarises the provisions of the Highway and Network Management Agreement.
55. Similarly, Network Rail has been working closely with the West Yorkshire Combined Authority to resolve concerns which it had raised regarding impacts on bus services as a result of highways works / diversions; and the potential effect on Huddersfield Bus Station in the event that it proved necessary to carry out certain works in the vicinity of the Bus Station. A side agreement has also been entered into with WYCA which has addressed the matters raised in its representation. The provisions of that agreement are summarised in INQ/23.
56. Access to business premises will generally be maintained during the progress of the works. In terms of the businesses whose access will be affected by the works, or who have raised concerns that it would be so affected:
  - (i) Network Rail has given commitments to the Yorkshire Children’s Centre (Obj/14) that emergency access to/from the rear of Brian Jackson House will be maintained, and that deliveries and refuse collection will be facilitated whilst the HD1 car park is being

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<sup>60</sup> NR/SOCG/1

used as a construction site, although general pedestrian and vehicular access will not be feasible. Access to Brian Jackson House from New North Parade will be unaffected;

- (ii) Subject to two limited periods of closure around Easter 2024 and Easter 2025 for safety reasons<sup>61</sup>, access will be retained to the car park at Castlegate Retail Park<sup>62</sup> during the works, with an in-out access from St Johns Road while the access onto John Williams Street is closed;
- (iii) Whilst there will be restrictions on the vehicles which can access / egress land owned by the Charities Trust Fund to the south west of Colne Bridge Road during the construction of earthworks to support the new Colne Bridge Road alignment, depending on the frequency with which access is required, Network Rail may be able to suspend work and move the fencing to allow access/egress of the specific vehicles (drawbar articulated HGVs) raised by the objector during engagement;<sup>63</sup>
- (iv) Access to the Mamas and Papas warehouse<sup>64</sup> to the north east of Colne Bridge Road will be maintained but will need to be realigned;<sup>65</sup>
- (v) Access to Veolia's waste transfer station and depot at Ravensthorpe will be maintained during construction, although there will be some closures of Calder Bridge Road which will require the use of diversionary routes to and from the site during those periods;<sup>66</sup>
- (vi) A new access to Mrs Newton's property (Obj/44) will be provided before the existing access passing through Occupation Underbridge can be stopped up.<sup>67</sup>

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<sup>61</sup> MP PoE 4.10.1 -2

<sup>62</sup> Obj/15 Kinder Properties Limited (freehold owner); Obj/16 DP Realty Ltd t/a Domino's (headlessee of Unit A); Obj/45 R & D Yorkshire Limited (undertenant of Unit A, and franchisee of the Domino's Huddersfield Central outlet). Obj/43 Cubico UK Ltd which occupies Unit B, has withdrawn its objection.

<sup>63</sup> MP PoE para 7.4.5.

<sup>64</sup> Obj/37 Mamas and Papas & Obj/34 Taurus Investments Ltd. Obj 30 DG Asset Enterprises Ltd acquired an interest after the Book of Reference was produced: see ppg 94-95 of Appendix B in NB's Appendices for details of their land interests.

<sup>65</sup> MP PoE paras 7.6.1 – 7.7.3

<sup>66</sup> Obj/42. For further information on the temporary parking provision and the limited periods of works directly affecting the Veolia site, see the NR Response to Veolia's Supplementary Objection (INQ/31) and the construction staging information sent with the commitments letter of 25 November 2021 (INQ 30).

<sup>67</sup> See Article 21 and Schedule 8 Part 1 to the draft Order, and Appendix 6 to INQ/3A.

57. With regard to car parking lost or displaced during construction of the Scheme:

- (i) Network Rail is confident that the parking displaced from the HD1 site will be able to utilise other publicly available car parks in the area. In particular, Network Rail understand that Kirklees Council considers that the nearby Cambridge Road car park can accommodate parking customers displaced from the HD1 site during the construction works.<sup>68</sup> Compensation for loss or damage resulting from the exercise of temporary possession powers is recoverable in principle in accordance with Article 34 of the draft Order. Losses incurred by HD1 Developments Limited (Obj/23) as a result of the cessation of the car parking operations on their land during its occupation by Network Rail for construction of the Order works may fall within the scope of that compensation right. Any diminution in the value of HD1 Development Limited's land resulting from the exercise of Order powers may form part of a claim for compensation in accordance with the provisions of the Order and/or the Compensation Code.<sup>69</sup>
- (ii) The Scheme does not provide for replacement parking for the Yorkshire Children's Centre. Network Rail does not consider that the Yorkshire Children's Centre enjoys a legal right to park on land adjacent to the railway at the rear of Brian Jackson House.<sup>70</sup> However, as set out above, it is considered that there is ample alternative parking available within the local area which those working at or visiting the centre would be able to use.
- (iii) Network Rail has given a commitment to Kinder Properties, DP Realty & R & D Yorkshire Ltd that it will use reasonable endeavours to secure no more than 17 parking permits from the operator of Bath Street Car Park for use when the car park at Castlegate Retail Park is unavailable during the Easter 2024 and Easter 2025 blockades.<sup>71</sup>
- (iv) Parking provision within the Mamas and Papas site will be reconfigured during construction: see Mike Pedley's proof at section 7.6. It is not possible to retain all parking spaces at all times during construction. Any loss or damage arising from the

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<sup>68</sup> GR PoE para 4.7.1 – 4.7.3

<sup>69</sup> NB PoE para 6.17.8

<sup>70</sup> See NB Rebuttal PoE at paras 2.1.9 – 2.1.14

<sup>71</sup> See INQ/3A

same can be pursued as part of a compensation claim under the provisions of the Order.

- (v) The Scheme provides for an alternative parking area on the offside of Calder Road during two periods when the part of the Veolia depot currently used for lorry parking is required for the construction of the Scheme. Veolia has raised concerns as to whether the use of that land will require a new Operators Licence. However, Mr Roberts of Veolia confirmed during XXC on Day 6 that Veolia has not yet asked the Traffic Commissioner whether a new Operator's Licence will be required. Having regard to the terms of the existing Operators Licence<sup>72</sup>, which is unconditional and has been in place for many years, there is no good reason to assume that a new Licence will in fact be required. In any event, Mr Roberts did not point to any clear and obvious reason why Veolia would not succeed in an application for a new Operator's Licence, were one to be required to authorise the use on a temporary basis of the alternative lorry park to be provided by Network Rail during the works on land to be acquired for that purpose under the Order<sup>73</sup>. On the evidence, it is reasonable to anticipate that if a new Operator's Licence is required, it will be granted on the same terms as the existing licence for the Calder Road site; given that the only difference between the existing site and the alternative temporary site as operating centres is that the entrance to the site will be on the opposite side of Ravensthorpe road (so for example, returning vehicles travelling north on Ravensthorpe Road would turn left instead of right into the site; and departing vehicles going south would turn right out instead of left).

58. In terms of the impacts on businesses whose land is used temporarily during construction, the evidence (in particular from Mike Pedley) is that Network Rail has sought to minimise, as far as reasonably practicable and through appropriate commitments, the impacts of the Scheme on landowners and businesses. Network Rail will continue to seek opportunities to reduce such impacts where it is reasonably practicable to do so. Where landowners and occupiers incur loss resulting from the temporary possession of their land or from temporary obstruction of or interference with their private right of access, the affected landowner (or occupier) may apply for compensation under article 34 of the Order (temporary possession)

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<sup>72</sup> INQ/36

<sup>73</sup> The commitments offered to Veolia (including specifications for the laying out of the temporary parking area), are in INQ 30.

and section 10 of the Compulsory Purchase Act 1965 (interference with private right of access).<sup>74</sup>

***Issue (v): The effects of the scheme on statutory undertakers 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.***

59. Specific safeguards and protective provisions for statutory undertakers (including utilities) are contained in Schedules 18 and 19 of the draft Order. These provisions are well-precedented in orders for transports and works scheme. They strike the right balance between ensuring that Network Rail can deliver the Scheme authorised by the Order whilst ensuring that the apparatus and interests of statutory undertakers affected by delivery of the Scheme are properly protected.
60. Schedule 19 to the Order is in five parts. Parts 2 to 5 are no longer the subject of objection before the inquiry. Part 2 contains provisions for the protection of operators of electronic communications code networks. Part 3 contains provisions for the protection of the Environment Agency. Section 3.2 and Appendix 1 of the Statement of Common Ground between NR and the EA (NR/SOCG/2 – 2 December 2021) contains agreed amendments to those protective provisions which are incorporated into the current version of the draft Order (INQ/9A & INQ/10A – 2 December 2021). Part 4 contains provisions for the protection of lead local flood authorities. Part 5 contains provisions for the protection of the Canal and River Trust (which has withdrawn its objection to the Order).
61. Part 1 of Schedule 19 contains provisions for the protection of specified undertakers. These include electricity, gas, water and sewerage undertakers (paragraph 3 of Schedule 19). There are two outstanding objections from such undertakers – Northern Powergrid (Obj/05) and Northern Gas Networks (Obj/12). Neither objector appeared to present their objection at the public inquiry.
62. The principal purpose of Part 1 of Schedule 19 is to regulate the removal of existing utilities apparatus from land to enable the authorised works to be carried out and the provision of alternative apparatus on, under or over land within Order limits so as to enable the

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<sup>74</sup> See NB PoE Section 4.

responsible statutory undertaker is able to continue to operate his undertaking via the alternative apparatus: see paragraph 6 of Schedule 19. Paragraphs 5 to 12 of Part 1 of Schedule 19 provide a conventional range of protections to utilities undertakers which apply in conjunction with the lift and shift provisions of paragraph 6.

63. Where diversions or other works to utilities are required as a result of the Scheme, the Order contains the land and powers necessary for that to be undertaken. The required land and powers for that purpose have been the subject of discussion between Network Rail and the utility undertakers concerned during preparation of the Order, so as to ensure (as far as reasonably practicable) that the necessary land is available to enable the diversions and other works to existing apparatus to be accommodated in a timely way and early in the construction programme; and without prejudicing the timely and economic delivery of the Scheme.
64. Northern Powergrid has submitted written representations in support of its objection. In those representations, Northern Powergrid emphasises its duty to maintain continuity of electricity supply to its customers; the fact that the Order works will interfere with its operational apparatus; and that its affected apparatus is in good condition and unlikely to require intervention for many years in the absence of the Scheme.
65. It appears that the main thrust of Northern Powergrid's complaint is that, in the light of these considerations, it is unreasonable that Network Rail should be able to invoke the terms of existing wayleaves agreements to require Northern Powergrid to carry out lift and shift of its apparatus affected by the Scheme. Instead, it is contended that the cost of such works should be indemnified by Network Rail under modified protective provisions.
66. In response on behalf of Network Rail, it is submitted that it is reasonable for Network Rail to resort to pre-existing wayleave agreements in order to secure the lift and shift or diversion of apparatus affected by the Scheme. Where such existing agreements do not enable Network Rail to secure the necessary diversions of existing apparatus to enable construction of the authorised works under the Order, then Network Rail will need to invoke the powers under Part 1 of Schedule 19. In that case, Northern Powergrid will enjoy the full range of protection which is conferred by Part 1 of that Schedule. Northern Powergrid has included an alternative set of protective provisions in the appendix to its written representation; but has not attempted in the body of that representation to explain or to justify changes to or

substitution of the protective provisions already included in Part 1 of Schedule 19. In the absence of any such evidence or analysis from Northern Powergrid to support either specific changes to the protective provisions included in the Order or their wholesale substitution, there is no justifiable basis for making changes to those protective provisions. In fact, it is the case that the protective provisions included in Part 1 of Schedule 19 are designed to ensure that continuity of supply is maintained (paragraphs 6(1)(2) and 9); and that the statutory undertaker is reimbursed the reasonable costs and expenses of diversion and other works to apparatus under the powers of the Schedule, and of repairs and losses resulting from the exercise of those powers (paragraphs 10-11).

67. The objection of Northern Gas Networks is essentially a holding objection which is unsupported by any substantial evidence or argument. The points made above in response to Northern Powergrid's objection apply also to Northern Gas Networks.
68. Both objectors have been in discussion with Network Rail with a view to seeking to negotiate protective provision agreements. Such discussions are able to continue prior and following enactment of the Order, should the parties desire to conclude such agreements: see paragraph 1 of Part 1 of Schedule 19 to the Order. In the meantime, for the reasons given above, we submit that neither objector has advanced a justification for amending or substituting the current provisions for their protection in Part 1 of Schedule 19 to the Order.

***Issue (vi) : The compulsory purchase tests***

69. 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. In the case of each objector, Nigel Billingsley summarises the purposes for which the land subject to compulsory purchase, temporary possession, acquisition of rights or imposition of restrictions is required.<sup>75</sup> The evidence of Graham Thomas, Mike Pedley and Chris Williams provides the design, engineering and construction management justification for that proposition. The evidence of Jim Pearson and other environmental witnesses provides that justification in respect of the need for appropriate works to mitigate the environmental effects of the Scheme.

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<sup>75</sup> See, in particular, his Appendix 2 which sets out in tabular form the specific land parcels in which an objector has an interest and the nature of the powers conferred by the Order in respect of that land.



70. The Order has been drawn to ensure that it includes sufficient land and rights to ensure that the Scheme can be delivered. Where it has been possible for Network Rail to identify that land may be needed only temporarily, or that only the acquisition of rights, or imposition of restrictions, is required, that is provided for in the Order: see Articles 29(4) & 5 (to be read with Schedules 10 and 11), Article 30 (read with Schedule 13), Article 31 (read with Schedule 14), Article 32(2) (read with Schedule 15) and Article 34 (read with Schedule 16) of the draft Order.
71. Mr Thomas's evidence explains that the Scheme is highly constrained by both the operation of the existing railway; the development which has taken place in close proximity to the historic railway corridor; and the other physical constraints along the route.<sup>76</sup> The engineering constraints within which this Scheme has had to be designed are significant. There is no fat that can be cut.
72. The Order provides for compensation where land or rights are acquired, restrictions or imposed, or loss or damage suffered as a result of land being used temporarily for construction of the Scheme. Nigel Billingsley summarises the compensation arrangements in section 4 of his proof (NR/PoE/NB/5.2).
73. The Scheme is compellingly justified on transport planning grounds. The Scheme will deliver significant transport, social and economic benefits. The design specification and required operational output, and the need for the engineering works authorised by the Order to deliver that specification and operational output, is described by Graham Thomas in section 3 of his proof. The options considered in settling the engineering design are summarised through the GRIP process in section 6 of the Statement of Case and detailed in Appendix B of that document. The strategic, policy and business case is stated in sections 3 to 5 of the Statement of Case (NR28). That case is substantiated in the evidence of David Vernon and Tony Rivero, and summarised at paras 15-26 and 77-8 of these Closing Submissions.
74. There is no impediment to delivery of the Scheme. It enjoys express support from Government – recently reinforced with the publication of the IRP – and funding to enable its implementation is committed. The most recent position on funding can be found in the

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<sup>76</sup> See, for example, Figures 3-35 and 3-36 at pg 79 of GT's PoE (physical constraints and environmental considerations in the Ravensthorpe area)

letter from the DfT dated 22<sup>nd</sup> September 2021 at Appendix 1 to David Vernon's PoE. This confirms that:

- (i) As of September 2021, Network Rail has received authority to commit over £1.4bn to develop, design and deliver the TRU programme.
- (ii) Further significant funding is forecasted, prioritised, and budgeted within the rail upgrade programme for the remainder of the current funding control period which runs to FY23/24.
- (iii) Further funding will then be unlocked when the next scheduled Programme Business Case is reviewed in 2023.

75. It is submitted that the following conclusions may firmly be drawn from the evidence before the inquiry:

- (i) The land and rights included in the Order are necessary to deliver the Scheme.
- (ii) There are no impediments to delivery of the Scheme.
- (iii) There is a compelling case in the public interest to justify conferring powers to compulsorily acquire land and rights included within the Order limits and for which the Order seeks compulsory purchase powers, and temporarily to possess and to use the land within the Order limits, for the purposes of the Scheme.
- (iv) That the purposes for which the Order is sought are sufficient to justify interference with rights protected by Article 1 of the First Protocol to the ECHR.

***Issue (vii): The alternatives to compulsory acquisition considered by NR for meeting the objectives of the scheme***

76. Nigel Billingsley set out in section 5 of his proof, and explained in XIC, the difficulties in practice in seeking to acquire land by negotiation for a linear railway scheme in advance of consent being sought for the Scheme. Nevertheless, as the revised and updated Status Schedule of Objectors affected by the Order CPO Powers (INQ/3A) records, prior to and during the course of the public inquiry, Network Rail has been able to negotiate settlement and withdrawal of a substantial number of the objections lodged by persons whose land is subject to compulsory purchase under the Order for the purposes of the Scheme. Network Rail has been able to agree heads of terms or offer commitments and/or undertakings to those who have not yet withdrawn their objections. Moreover, the making of the Order

would not preclude land being acquired thereafter by agreement rather than exercise of the compulsory acquisition powers; or Network Rail agreeing with a landowner to possess and use land temporarily, rather than exercising its compulsory purchase powers – for example, by entering onto land pursuant to its temporary possession powers in Article 34 to carry out the works whilst discussion is ongoing as to the necessary extent of permanent acquisition that is required for the operation of the Scheme, rather than proceeding directly to CPO via a General Vesting Declaration or Notice of Entry. We also repeat what we say at para 70 above.

***Issue (viii): The extent to which the scheme is consistent with the National Planning Policy Framework, national transport policy, and local planning, transport and environmental policies.***

77. This issue is addressed in detail in Section 5 of the Statement of Case,<sup>77</sup> in the Planning Statement,<sup>78</sup> and in the evidence of Tony Rivero. David Vernon and Tony Rivero both drew attention to the support which the Scheme enjoys in strategic transport policy, both regional and national<sup>79</sup> – now further reinforced by the IRP. The Scheme also finds strategic support in local policy: specifically, Policy LP19 ‘Strategic Transport Infrastructure’ of the Kirklees Local Plan Policies & Strategies (NR 39)<sup>80</sup> read with the Kirklees Local Plan Allocations and Designations Document (NR 40)<sup>81</sup>.
78. Section 5.3 of the Statement of Case and sections 6 and 7 of Mr Rivero’s PoE contains a detailed appraisal of the Scheme against national and local planning policy. Although the request for deemed planning permission under s.90(2A) TCPA 1990 does not fall to be determined in accordance with section 38(6) PCPA 2004,<sup>82</sup> it is submitted that the Scheme is in accordance with the broad thrust of national and local planning policy and attracts support from both the National Planning Policy Framework and the development plan.

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<sup>77</sup> NR28

<sup>78</sup> NR14

<sup>79</sup> DV drew attention, in XIC, to the National Infrastructure Strategy (Nov 2020) at pg 28 (NR 31); the Transport Investment Strategy Command Paper (July 2017) at pg 17 para 1.25 (NR 37); and Transport for the North Strategic Development Plan pgs 6, 10 and 98-103 (NR 42). TR referred, in addition, to Project Speed, the Northern Transport Strategy (NR47); the West Yorkshire Combined Authority Transport Strategy (August 2017) (NR 43) at pgs 22 and 28; and the Rail Environment Policy Statement (NR94).

<sup>80</sup> See, in particular, the explanatory text at para 10.27

<sup>81</sup> See allocation TS7 and page 201

<sup>82</sup> *R (on the application of Samuel Smith Old Brewery (Tadcaster)) v Secretary of State for Energy and Climate Change* [2012] EWHC 46 (Admin)

79. The Scheme works will involve some development in the Green Belt at Heaton Lodge and Steanard Lane, Mirfield as shown on the Green Belt overlay plans INQ/17a and INQ/17b. The works at Heaton Lodge shown on INQ/17a are needed for the creation of the new Heaton Lodge Curve – an improved alignment for the new fast lanes which will enable trains to run at 100mph as opposed to the 75mph to which they are currently constrained by the rail geometry of the existing alignment. As Mr Thomas has explained in his proof of evidence, this engineering intervention is crucial to the delivery of the operational improvements which are the aim of the Order. As Mr Rivero explained in his oral evidence (and see paragraph 5.3.25 of the Statement of Case (NR28)), the “*vast majority*” of these engineering works will be below ground level in cutting: “*the visual impact would be very much reduced*”. This reflects the assessment which has been made of the effect of the works on the openness of the Green Belt which has been factored into the assessment against the tests in the NPPF in paragraphs 9.4.1 – 9.4.5 of the Planning Statement (NR 14) and at paragraphs 5.3.22 – 5.3.25 of the Statement of Case (NR28).<sup>83</sup> At Steanards Lane, the rail alignment within the area shown on INQ 17b is unchanged, save for the installation of OLE equipment to enable the electrification of the route.
80. Mr Rivero confirmed that these engineering and building works will constitute inappropriate development in the Green Belt. Specifically, the works are not considered to fall under paragraph 150 c) of the NPPF – local transport infrastructure which can demonstrate a requirement for a Green Belt location – as Network Rail does not regard the Scheme as “local” transport infrastructure (see also paragraph 9.4.2 of the Planning Statement). Mr Rivero’s assessment is that very special circumstances are present in this case to clearly outweigh the harm caused by these elements of inappropriate development. Those very special circumstances are identified in paragraphs 5.3.23 - 5.2.25 of the Statement of Case (NR28) and paragraphs 9.4.3 and 9.4.5 of the Planning Statement (NR14). In short, to deliver the outputs which this Scheme is intended to achieve there needs to be an improvement in line speeds in this area, and the only way this can be achieved is through the creation of a new curve to achieve the line speeds. That, together with the works to facilitate the electrification of this part of the NTPR, are the key drivers for the work in this location. Both are fundamental to achieving the Scheme objectives detailed at paras 15-26 above, and in delivering the wider public benefits which are to be realised from the Order and the TRU.

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<sup>83</sup> The Local Plan does not have any specific Green Belt policy in relation to transport infrastructure facilities: see para 9.4.1 of the Planning Statement.

***Issue (ix): 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***

81. A detailed explanation for the disapplication of the legislative provisions in article 5 of the draft Order is provided on pages 2 – 4 of the Explanatory Memorandum (NR 3). Section 3 of NR/SOCG/2 records the agreement between Network Rail and the Environment Agency to the disapplication sought by article 5(1)(a) of the Order. There are no further outstanding objections to article 5 of the Order. As the Explanatory Memorandum records, each of the proposed disapplication provisions in article 5 is well-precedented in TWAOs for rail improvement works.
82. Article 6 of the Order remains contentious between NR and the EA, who object to its inclusion in Order as a matter of principle. The competing arguments are set out in detail in section 4.2 (paragraphs 4.2.1 – 4.2.19) of NR/SOCG/2.
83. The context in which Network Rail proposed article 6 is as follows. The Order empowers Network Rail compulsorily to acquire land at Demex Thornhill Quarry and at Dewsbury Sand and Gravel at Forge Lane. In each case, the land is required for permanent engineering works that are critical to the delivery of the Scheme: the improvement of the railway between the intersection flyover at Ravensthorpe and the Baker Viaduct, the Baker Viaduct itself and the Static Frequency Converter Feeder Station. These lands are operational landfills regulated under the conditions of environmental permits issued under Part 2 of the Environmental Permitting (England and Wales) Regulations 2016 (NR104).
84. Environmental permits do not run with land on which the regulated facility is in operation. It follows that compulsory acquisition of such land by Network Rail under the provisions of the Order will leave the environmental permit in the hands of the current operator. Moreover, Network Rail is to acquire and to develop the land for rail engineering purposes and not for the purposes of operating a landfill.
85. The Environment Agency argue that the 2016 Regulations are able to accommodate this change of circumstances through the transfer of the permit to Network Rail under the provisions of regulation 21 of the 2016 Regulations. However, it is at the very least decidedly questionable whether that is the correct position in law. Paragraph 13 of Part 1 of Schedule

5 to the 2016 Regulations appears to prohibit the Environment Agency from granting an application for transfer of a permit unless the transferee will be the operator of the regulated facility (here, a landfill) and will operate that facility in accordance with the permit. Neither will be true of Network Rail. Nor will Network Rail be in a position to apply to surrender the permit under regulation 25 of the 2016 Regulations, since Network Rail will not be the operator of the regulated facility.

86. The obvious conclusion to be drawn from this analysis of the 2016 Regulations is that they neither contemplate nor make provision for the situation that is in prospect in the case of the Order; i.e. that land that is subject to an environmental permit as the site of a regulated facility is acquired compulsorily for the purposes of railway engineering works which will displace that facility. The guidance materials that the Environment Agency pray in aid in the course of their written submissions in NR/SOCG/2 do not support the contrary view: they do not address the point at all.
87. Network Rail's solution to the problem is article 6. Article 6 provides a bespoke procedure which avoids the uncertainty as to whether and, if so, how the 2016 Regulations apply; whilst imposing the substantial pollution control and remediation duties upon Network Rail which would apply upon the surrender of an environmental permit on application under regulation 25 of the 2016 Regulations (see in particular paragraph 14 of Part 1 of Schedule 5 to the 2016 Regulations). Network Rail has extended that proposed bespoke procedure in response to concerns raised by the Environment Agency, by the addition of new paragraphs 6(5)-(6) and (8) – see paragraphs 4.2.7 - 4.2.8 and Appendix 3 of NR/SOCG/2. The purpose of these additions is to ensure that the Environment Agency retains regulatory supervision and control over the performance of the measures to be carried out under article 6(3); and to provide a dispute resolution mechanism.
88. It is submitted that the extended provisions of article 6 now provide a scheme of environmental control and protection for the former regulated facility which is in practice as effective as that which would apply for the purposes of an operator's application to surrender an environmental permit under regulation 25 of and paragraph 14 of Part 1 of Schedule 5 to the 2016 Regulations. There is one material difference between the two regimes: the deemed approval provision of article 6(3)(b) of the Order. That provision is justified in the case of the Order, since it avoids the risk of delay to works that are on the

critical path for the Scheme, and which would otherwise arise simply from failure to determine Network Rail's application to surrender under article 6(2) in a timely way.

89. For these reasons, in addition to those set out in paragraphs 4.2.2 – 4.2.10 of NR/SOCG/2, Network Rail requests that article 6 be retained in the Order (in the terms proposed in Appendix 3 of NR/SOCG/2).

***Issue (x): The purpose and effect of any substantive changes proposed by Network Rail to the Order since the application was made, and whether anyone whose interests are likely to be affected by such changes have been notified***

90. Network Rail has proposed 2 changes of substance to the draft Order since it was submitted.
91. The first change is to remove articles 18(4) and 47 of the draft Order, which made special provision for the maintenance of the A62 Leeds Road Bridge, and to bring maintenance of that bridge into the scope of article 18(3) of the draft Order. There are consequential changes associated with that substantive change. The changes are explained in INQ/5. The person whose interests are likely to be affected by those changes in Kirklees Council, who requested that Network Rail make those changes to the Order.
92. The other substantive changes are the additional paragraphs inserted into article 6 of the draft Order, as explained in paragraphs 87 to 89 above. That change has been made for the benefit of the Environment Agency, who is the person likely to be affected by it.
93. We draw attention also to the agreed changes to the protective provisions in favour of the Environment Agency in Part 3 of Schedule 19 to the Order, to which reference is made in paragraph 60 above. There are no changes proposed that are likely to affect the interests of anyone other than the EA for whose benefit the protective provisions have been included in the Order.

***Issue (xi): The conditions proposed to be attached to the deemed planning permission for the scheme***

94. A list of conditions agreed with Kirklees Council was submitted as an Appendix to the Statement of Common Ground (NR/SOCG/1). They were discussed in detail during the conditions session on Day 6. An updated version of the draft conditions, amended in terms agreed between Network Rail and Kirklees Council to reflect those discussions, has been provided: INQ/12b.

***Issue (xii): Whether the statutory procedural requirements have been complied with.***

95. Network Rail submitted a pack of information on Day 1 of the Inquiry which evidences compliance with the statutory procedures: INQ/4.<sup>84</sup>

***The applications for listed building consent & heritage assets***

96. Network Rail has made 9 applications for listed building consent for works to 9 listed structures required as part of the Scheme:

- (i) Huddersfield Station (Grade I);<sup>85</sup>
- (ii) Huddersfield Viaduct (Grade II);<sup>86</sup>
- (iii) Wheatley's Colliery Lane Overbridge (Grade II);<sup>87</sup>
- (iv) Colne Bridge Road Overbridge (Grade II);<sup>88</sup>
- (v) Mirfield Viaduct (Grade II);<sup>89</sup>
- (vi) Calder (Wheatley's) Underbridge (Grade II);<sup>90</sup>
- (vii) Occupation Underbridge (Grade II);<sup>91</sup>
- (viii) Toad Holes Underbridge (Grade II);<sup>92</sup> and
- (ix) Ming Hill Underbridge (Grade II).<sup>93</sup>

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<sup>84</sup> See also the supplementary note submitted to address a particular issue raised by Mr Strafford on behalf of Kinder Properties Ltd: INQ/34.

<sup>85</sup> Core Doc NR017

<sup>86</sup> Core Doc NR018

<sup>87</sup> Core Doc NR019

<sup>88</sup> Core Doc NR020

<sup>89</sup> Core Doc NR021

<sup>90</sup> Core Doc NR022

<sup>91</sup> Core Doc NR023

<sup>92</sup> Core Doc NR024

<sup>93</sup> Core Doc NR025



97. Each application is accompanied by a detailed Heritage Assessment which appraises the significance of the asset,<sup>94</sup> the impact of the Scheme, the options considered for the Scheme works affecting the asset, and the mitigation or compensation proposed, and by detailed plans for the works proposed.
98. Network Rail has worked closely with Historic England and Kirklees Council throughout the development of the Scheme,<sup>95</sup> a process described by Ms Rees-Gill in XIC as one of *“challenge and collaboration”*. The value of that process is clear. There is no substantive objection either to the making of the Order or to the grant of listed building consent for any of the 9 listed buildings from Historic England or from Kirklees Council.
99. Ms Rees-Gill detailed in her evidence the significant work undertaken to arrive at the proposals for which listed building consent is now sought. It started with seeking to understand the railway, and its components, including how they have been subject to change over the years. The first document which Network Rail looked to, and which was already in place, was the TransPennine Route Statement of History and Significance: West of Leeds prepared by Alan Baxter Associates in March 2017 (NR 85). This document sets out a detailed examination of the individual heritage assets along the Transpennine Route as well as giving an overview of the route. As Ms Rees-Gill explained in XIC, it is helpful for understanding the special significance of the assets along the route – with some of the bridges discussed in the report put forward for listing or achieving a greater listing status in light of the report.
100. That was followed in 2018 by work to understand the significance of Huddersfield Station<sup>96</sup> (the listing, being a legacy listing, only described the asset without detailing those elements which made a notable contribution to its significance), a *“vital piece of work”* which enabled Network Rail *“to understand what was important about the station, to communicate that to designers and architects, and to understand where there was capacity for change and where there could possibly be harm”*.<sup>97</sup>

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<sup>94</sup> As required by NPPF para 194

<sup>95</sup> See Appendix 1 to KRG PoE

<sup>96</sup> Discussed in the Heritage Assessment submitted with the application

<sup>97</sup> Ms Rees-Gill in XIC, Day 6

101. As the design process began, it was recognised that the Transpennine Route needed to be looked at as a historic railway and to understand that overall significance, particularly if changes were to be made to key assets along the route, especially if they were listed. This led to the 'TransPennine Route Upgrade Route-wide Statement of Significance' prepared by Alan Baxter Associates in August 2019 (NR 103), the brief for which was devised between Atkins, Network Rail, Historic England and Alan Baxter Associates, because that was critical to feed into the assessment of the heritage assets and the environmental statement.
102. Ms Rees-Gill discusses the significance of the Transpennine Route, and of each of the 9 listed assets, in section 3.1 of her proof (NR/PoE/KR-G/6.2).<sup>98</sup> As she sets out at 3.1.1, the importance of the Transpennine Route lies in its diverse design influences, the route having been planned and constructed in various phases between 1836 – 1849 by different companies, engineers and architects, and then subject to widening in the 1880s and 1890s.
103. In respect of the individual structures, their significance lies in part in their signature design related to the individual companies that constructed them. We would reiterate that each of the 9 assets affected are railway assets. Their significance is inextricably linked with the railway which they were built to serve.<sup>99</sup> Ms Rees-Gill discusses the history and significance of each asset in her proof: Huddersfield Station at paras 3.1.3-3.1.7 and 3.2.3-3.2.7; Huddersfield Viaduct at 3.1.8 and 3.2.8; Wheatley's Overbridge at 3.1.9 and 3.2.9; Colne Bridge Road Overbridge at 3.1.10 and 3.2.10; Mirfield Viaduct at 3.1.11 and 3.2.11; Wheatley's Viaduct at 3.1.12 and 3.2.12; Occupation Underbridge at 3.1.13 and 3.2.13; Toad Hole Underbridge at 3.1.14 and 3.2.14; and Ming Hill at 3.1.15 and 3.2.15.
104. Ms Rees-Gill set out in some detail in her evidence the engagement, optioneering and design work that was undertaken, before arriving at the design solution that has been put forward for those aspects of the Scheme which will have a direct effect on the 9 listed assets which are the subject of the consent applications; and the design based solutions which have been used to limit and reduce impacts on heritage assets and/or enhance elements of those

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<sup>98</sup> See also Section 8.3 of the Statement of Case (NR 28) which cross-refers to the 2019 Alan Baxter Report (NR103)

<sup>99</sup> We also highlight in that regard what is said in section 10 (Conclusion: summary of significance) of the 2019 Alan Baxter Report (NR103), which set out that for some of the bridges and viaducts designed by George Stephenson, Thomas Grainger and A.S. Lee that they were "*of less historic interest but are none the less fine examples of the way railway bridge design evolved from principles established by previous generations*" (pg 42) and, under the sub-heading 'Aesthetic value' "*Unlike some early railways, there is little evidence that the lines which make up this route were consciously designed to achieve an overall aesthetic effect. Practical engineering considerations took priority*".

assets. This is also recorded in the Heritage Assessment for each of the assets, and an overview of the work undertaken with embedded mitigation for each structure is helpfully summarised in Table 8-1 of the Statement of Case (NR28). Ms Rees-Gill illustrated that work, in her XIC, by particular reference to the detailed consideration given to the works at Huddersfield Station (including those to the canopies and the design of the new footbridge)<sup>100</sup> and the options which had been explored for retaining all or part of Colne Bridge Road Overbridge (MVL3/107)<sup>101</sup> and Wheatley's (Colliery Lane) Bridge (MVL3/103).<sup>102</sup> She discusses the intervention proposed, the assessment of harm, and consideration of the effect on significance in each case in accordance with the NPPF and Local Plan policy, in section 4 of her proof. She also referred to the important role of the proposed Design Guide for Huddersfield Station<sup>103</sup> (based on experience of the successful use of such a guide in the case of Stephenson's Bridge on the Ordsall Chord TWA0).

105. The product of that work is clear. Of the 9 listed assets, the two bridges which will be lost to the Scheme are assessed (understandably) as experiencing substantial harm to their significance. The harm to significance of Huddersfield Station, Huddersfield Viaduct and the 5 bridges subject to works of alteration is assessed as being less than substantial, for the purposes of Part 6 of the NPPF. That assessment on behalf of Network Rail is a judgment shared by Historic England: see Appendix B to INQ/7. As Ms Rees-Gill stressed in XIC, she feels *"very confidently, that the designs that have come forward, that I and my team have been part of and have assessed, are more than sufficient for us to make a judgment on where the level of harm is and the harm to significance"*; a view she considers is *"corroborated with the responses that have come through from the Council and Historic England because they have been able to make the decision that they have no objections to the granting of listed building consent and no objection to granting of the order in respect of heritage grounds."* In short, neither Historic England nor Kirklees Council has been impeded by any "information gap" in respect of the substance of the works for which listed building consent is sought from reaching a judgment as to their impact on the significance of the asset in question.

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<sup>100</sup> Including by reference to the images and visualisations in section 4 of her PoE and in NR15A

<sup>101</sup> NR 20

<sup>102</sup> NR 19

<sup>103</sup> Secured by the revised condition 6 of the proposed listed building consents for Huddersfield Station: INQ/6A.

106. The heritage assessments provide the necessary details of the works to the listed assets to enable judgments to be made as to the degree of harm to significance in each case; and for that harm to be balanced against both the need for those works to enable delivery of the rail improvements proposed by the Scheme, and the public benefits which are the objective of the Order, as required under the Framework. Ms Rees-Gill recognised that there are some nuances, or further points of detail, which will still need to be settled. Those matters will be dealt with through the proposed conditions for each listed building consent<sup>104</sup>. The crucial control tool to assure the quality of the finished product and of the performance of the consented works to each of the listed buildings is the Conservation Implementation Management Plan (CIMP) to be submitted to and approved by Kirklees Council for each asset. An outline of the content for the proposed CIMPs has been shared with Kirklees Council,<sup>105</sup> and the minimum required contents and methodologies for each CIMP are specified in the proposed conditions for each of the listed building consents. The CIMP is a quality assurance and control mechanism which has been used – successfully – for delivery of works to Stephenson’s Bridge under the Network Rail (Ordsall Chord) Order 2015 provided at Appendix 3 to Ms Rees-Gill’s proof.<sup>106</sup> Both Kirklees Council and Historic England are supportive of that approach. It is submitted that based on the evidence before the inquiry on the applications; on the conditions which will secure the quality of the perfected designs and through the CIMP which will assure the quality of delivery, there is sufficient information to make a safe and informed judgment that the proposed interventions will be delivered to the required level of design quality in practice.<sup>107</sup>
107. What then needs to be considered is the balance between the harm which will be caused by the proposed works to the significance of each heritage asset, the need for those works to deliver the Scheme and the public benefits of the Scheme. Is there a clear and convincing justification for the harm that would result from the proposed works? For 7 of the assets, that requires weighing the less than substantial harm against the public benefits of the proposal including, where appropriate, securing the optimum viable use of the asset (NPPF para 202). For the 2 assets to which there will be substantial harm to significance (Colne Bridge Road Overbridge, Wheatley’s (Colliery Lane) Overbridge), it must be shown that their

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<sup>104</sup> See INQ/6A.

<sup>105</sup> The minimum contents for the proposed CIMPs have been provided at Appendix 4 to KRG PoE. The CIMP successfully developed and implemented for Stephenson’s Bridge in the delivery of the approved Ordsall Chord TWAO is at Appendix 3.

<sup>106</sup> NR PoE KR-G 6.3

<sup>107</sup> As KRG confirmed in response to a direct question from Inspector Singleton on Day 6.

demolition is necessary in order to achieve substantial public benefits that outweigh their loss (NPPF para 203).

108. In our submission, in the case of each asset, the evidence of Ms Rees-Gill, supported by the Heritage Assessments produced in support of the application for listed building consent, substantiates the case for the proposed intervention in accordance with those policy requirements. In each case, the process whereby the necessary works have been identified and formulated in order to enable the delivery of the Scheme is explained, including the options considered with the view to avoiding the need for intervention. Those assessments are unchallenged in evidence before the inquiry. They are convincing work and merit acceptance.
109. We have also detailed above, by reference to the evidence of David Vernon, the clear need for the Scheme and the very substantial benefits which would be realised by removing the “*brake*” which this section of the NTPR applies to improvements in reliability, capacity and journey time across the route as a whole. Those benefits cannot be achieved without the engineering interventions which would be authorised by this Order. That is clear from the evidence of Graham Thomas and, in respect of highways carried by the assets, the evidence of Chris Williams. In short, the evidence establishes that this Scheme cannot be delivered without the interventions to these assets for which listed building consent is sought. We reiterate that these are all on-line railway assets, built to serve the railway; a railway that has evolved and changed since it was first constructed in the 1830s to meet the needs of increased passenger and freight demand and the development and lives of the communities which it serves.<sup>108</sup> This Scheme, in effect, adds the next phase – or the next chapter in the story - of this railway: to ensure that a railway built to connect the great cities of the North during the industrial boom of the mid-1800s can continue to properly serve those towns and cities into the 21<sup>st</sup> century.
110. As we stated in Opening, 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. We have no hesitation in submitting that the listed building consents are merited

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<sup>108</sup> See paras 8.3.4 – 8.3.6 of the Statement of Case (NR 28)

and ought properly to be granted as justified in accordance with the policy provisions of the NPPF.

111. The heritage assessment work undertaken has not been limited to the 9 assets for which listed building consent is sought. There is a careful assessment of the impacts of the Scheme on the historic environment, including designated and non-designated assets, in Chapter 6 of Vol 2(i) of the ES.<sup>109</sup> Ms Rees-Gill sets out in her proof the assessment of the potential impact of the scheme on 6 of those assets: the Huddersfield Town Conservation Area (paras 3.1.16 and 4.4.60-62); the Calder and Hebble Underbridge and River Calder Underbridge (paras 3.2.17 and 4.4.63 – 67); the Railway Coal Chutes and Tramway with Walls and Gates (paras 3.2.18 and 4.4.68 – 70); Huddersfield Broad Canal, Locks and Bridges (para 3.2.19 and 4.4.71 – 77); and the Large Brick Warehouse in the Goods Yard to the west of the station (on the HD1 site) (paras 3.2.20 and 4.4.78 – 4.4.80).
112. The setting of the Calder and Hebble Underbridge and River Calder Underbridge will be affected by the new Baker Viaduct. A Heritage Assessment has been provided for those structures<sup>110</sup> and they are also the subject of a separate Statement of Significance prepared by Alan Baxter Associates.<sup>111</sup> Baker Viaduct has been carefully designed to ensure an appropriate relationship with the setting of the structures.<sup>112</sup> This has included adjusting the design of the alignment and height of the viaduct to be almost level with the existing bridges which will provide new views and enhanced appreciation of the cast iron bridges by the train passengers: a view not previously possible when travelling on the rail network.<sup>113</sup> A specific condition has been proposed on the deemed planning permission to provide for the approval of details relating to (inter alia) the inspection regime and maintenance measures for the bridges, once they cease to form part of the operational railway (proposed condition 20).<sup>114</sup> It has been assessed that the harm to these structures from the Scheme would be less than substantial harm. Again, the new Baker Viaduct is a critical engineering element required in order to deliver the Scheme; thus the significant public benefits which would

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<sup>109</sup> See also section 8.2 of the Statement of Case

<sup>110</sup> Which can be found at Appendix 6-5 to the ES in Vol 3 (NR 16B). A separate Statement of Significance has also been prepared for those assets by Alan Baxter Associates: NR87

<sup>111</sup> NR87.

<sup>112</sup> It will be required to be built in accordance with the Planning Directive drawings submitted with the application for the deemed planning permission: see condition 2 (INQ 12b)

<sup>113</sup> KR-G PoE para 4.4.64

<sup>114</sup> INQ/12b

flow from the Scheme justify the less than substantial harm that would be caused to the significance of these assets by new railway development in their setting.

113. There will be temporary impacts on the Conservation Area from the construction works required at the Station and at Huddersfield Viaduct. Mitigation measures have been proposed. The listed building consent conditions for Huddersfield Station and Huddersfield Viaduct, as agreed with the Council, had previously provided that the CIMP should contain methodologies for any works to reduce, mitigate or avoid harm to the special interest and character of the Conservation Area.<sup>115</sup> It is now proposed that this would instead be included within condition 5 of the proposed conditions to the deemed planning permission: see INQ/12b.
114. HD1 Developments Ltd (Obj/23), the owners of the Large Brick Warehouse in the Goods Yard, have not objected to the applications for listed building consent for works to Huddersfield Station and to Huddersfield Viaduct. The evidence given in writing by Mr Bottomley (who did not appear and so was not cross-examined) relates primarily to the effect of the proposed new platform canopies on the setting of the Goods Warehouse, and other listed buildings within, or proximate to, HD1's land. It is not disputed that the proposed new canopy structure replacing the current trainshed roof would affect the setting of the Warehouse. Mr Bottomley considers that that will give rise to less than substantial harm to the significance of the Warehouse. In contrast, it is the judgment of Ms Rees-Gill and of Kirklees Council that these proposed works would have a beneficial effect on the listed buildings within the HD1 site: see paras 2.1.5 and 2.1.22 – 22 of Ms Rees-Gill's Rebuttal Proof (NR/PoE/REB/KR-G/06). Historic England also welcomes the design for the new canopies, which they consider *"take opportunities to open up new views through to the warehouse and reconnect people's perceptions of this side of the station"*.<sup>116</sup> This is ultimately a matter of judgment. We submit that there is obvious force in the majority view. However, as Mr Bottomley recognises, even if it is concluded that there would be less than substantial harm to the setting of the Warehouse, that harm would have to be balanced against the public benefits of the Scheme (he does not, for example, suggest changes or modifications be made to the Order which he says would avoid or mitigate the harm he has identified). The benefits of this Scheme have been considered in detail above. It is frankly impossible reasonably to conclude other than that the very significant benefits to rail

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<sup>115</sup> See INQ/7

<sup>116</sup> REPS/02, quoted at para 2.1.8 of KR-G's rebuttal proof.

passengers that would be realised through the upgrade works provided for by the Scheme clearly and obviously outweigh the less than substantial harm to the setting of a building (or buildings) constructed for the London and North Western Railway company as part of the expansion of Huddersfield Station in the late 1800s.

115. Agreement has been reached on modified conditions to be imposed in each case in the event that listed building consent is granted: INQ/6a.

### ***Public Open Space***

116. The Scheme requires the use of a number of areas of informal public open space which lie alongside the existing rail corridor. Network Rail has made requests for certificates under s.19(1)(a) and s.19(1)(b) of the Acquisition of Land Act 1981 to include powers to acquire that land in the draft Order without the Order being subject to special parliamentary procedure.<sup>117</sup>
117. For the request made under s.19(1)(a) (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. For the land encompassed within the s.19(1)(b) request, certain small residual areas of very limited extent, Network Rail's case is that no exchange land is necessary.
118. 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.
119. 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>118</sup> The land remains in the Order, however, to ensure that it is acquired with a fully cleansed title,<sup>119</sup> as provided for by Articles 44(2) and 45(1) of the draft Order.

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<sup>117</sup> NR 26.

<sup>118</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>119</sup> Pursuant to s.19(3)(b) of the Acquisition of Land Act 1981.



120. 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 of the ES, in the amended form submitted on Day 1 of the Inquiry: INQ/13.<sup>120</sup>
121. There is one outstanding objection to the applications (Obj/46 Mr Forbes) although he did not appear at the inquiry. Mr Rivero addresses the proposed exchange land, and remaining objection, at paras 8.3.6 to 8.3.8 of his proof and confirmed in response to a question from Inspector Singleton<sup>121</sup> that the proposed exchange land was, in his view, equally accessible to and would serve the people who are likely to use the public open space today.
122. Network Rail's position remains, therefore, that there is no reason why the certificates which the Secretary of State indicated that he was minded to issue on 6 June 2021 should not be granted.

***Remaining objections to the draft Order & associated consents***

***Obj 1 : Lawton Yarns Ltd***

123. Lawton Yarns Ltd occupy land at Ravensthorpe next to the River Calder. P41 Ltd, a company in the same group as Lawton Yarns Ltd, owns part of the land. There is a Northern Powergrid electricity pylon on the site and Network Rail requires access to the site to undertake works to the Northern Powergrid apparatus. The rights sought under the Order are limited to air rights and temporary possession and use of land.<sup>122</sup> Network Rail has written to Lawton Yarns offering a number of commitments: see Appendix 1 to INQ/3A. In the event that disruption is caused as a result of the works, the objector would be entitled to compensation under the Order.<sup>123</sup>

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<sup>120</sup> Correcting the areas of public open space to be lost and provided in exchange, and deleting the reference to there being a slight gain in public open space once the Scheme becomes operational. It was confirmed that this had arisen due to a rounding area, rather than a change in the land proposed to be acquired or provided in exchange.

<sup>121</sup> Day 3

<sup>122</sup> See pages 2-3 of NB's Appendices (NR/PoE/NB/5.3)

<sup>123</sup> See Article 34 in respect of temporary possession and use of land and Schedule 12 in respect of the acquisition of rights.

Obj 2: Brendan Kitson

124. Mr Kitson, a resident of Dewsbury, objects on the basis that he finds it *“impossible to confirm which footpaths and bridleways are to be closed (temporarily or permanently) or diverted”*. Network Rail has written to Mr Kitson to inform him where that information can be found. Public rights of way subject to temporary closures are listed in Table 14-10 of Vol 2i Chapter 14 of the ES (NR16A). Those which are to be stopped up or permanently diverted are detailed in Schedule 4 Part 1 of the draft Order.<sup>124</sup>

Obj 3: Richard Kelly

125. Mr Kelly, a resident of Lepton, raises a number of concerns regarding road signage on various Highways England and local authority roads, and corruption in Government. His concerns do not appear to specifically relate to the Scheme.

Obj 5: Northern Powergrid

126. Protective provisions for the protection of Northern Powergrid are included in Part 1 of Schedule 19 to the draft Order. See also paragraphs 59-68 above.

Obj 12: Northern Gas Networks

127. Protective provisions for the protection of Northern Gas Networks are included in Part 1 of Schedule 19 to the draft Order. See also paragraphs 59-68 above.

Obj 14: Yorkshire Children’s Centre

128. As indicated to the inquiry by email from Mr Farr to the Programme Officer on 8 November 2021, Heads of Terms have been agreed between Network Rail and the objector (see INQ/3A) which resolve the Children’s Centre’s objections to the Scheme. The objector did

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<sup>124</sup> INQ 10

not, therefore, appear to pursue its objection at the inquiry,<sup>125</sup> but as not yet formally withdrawn their objection to the Scheme.

Obj 15: Kinder Properties Limited, Obj 16: D P Realty t/a Domino's, Obj 45: R & D Yorkshire Limited

129. As indicated to the inquiry by email from Mr Strafford to the Programme Officer on 11 November 2021, agreement has been reached between Network Rail and the objectors (see INQ/3A). The objector did not, therefore, decide to appear at the inquiry, pending completion of formalities, but have not yet formally withdrawn their objection to the Scheme.

Obj 23 – HD 1 Developments Limited

130. HD1 Developments Ltd ('HD1') did not appear to present its objection to the public inquiry. Network Rail has offered commitments which are intended to address the objector's concerns as far as reasonably practicable without prejudicing the timely and economic delivery of the Scheme and its subsequent operation.<sup>126</sup>

131. HD1's land is primarily required during the construction of the Scheme as the location for the main construction site to support the management of construction works at Huddersfield Station and eastwards along the Huddersfield Viaduct. In his proof of evidence, Mike Pedley provides a comprehensive justification of the need for NR to occupy HD1's land for that purpose. The land is currently in use as a commercial car park. Graham Foulkes' proof of evidence identifies alternative car parks which have capacity to absorb customers displaced from HD1's car park during NR's occupation of the site. HD1 will be entitled to claim compensation for losses which result from the temporary possession of their land.

132. Network Rail requires permanent rights of access and restrictive covenants in respect of HD1's land in order to secure access to the railway for operational purposes; and to maintain safe operation of the electrified railway following the installation of OLE. Mr Billingsley explains the position in his proof at section 6.17. Again, insofar as the acquisition of these rights results in loss to HD1 as landowner, it will have a claim for compensation.

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<sup>125</sup> Although some questions were asked of MP in XXC on Day 2 by Mr Farr, which relate to the matters now contained in the Heads of Terms.

<sup>126</sup> See INQ/28.

133. In paragraphs 4.07 to 4.09 of his proof of evidence, Mr Bottomley asserts that the works to Huddersfield Station prejudice the redevelopment of the Warehouse building and the implementation of planning permission granted as long ago as July 2006 for a scheme of mixed use conversion of that listed building.
134. The credibility of Mr Bottomley's assertion that the July 2006 planning permission is extant is seriously open to question. Mr Billingsley has produced a copy of the planning permission as Appendix NB06 of his rebuttal proof (NR/PoE/NB/5.4). The planning permission was granted subject to a number of pre-commencement conditions. Mr Rivero gave evidence that he had searched the planning file and found no evidence to suggest that those conditions had been discharged. The reasonable inference is that the planning permissions has probably expired.
135. There is no evidence to substantiate the assertion that the scheme permitted by that expired planning permission, if revived, would be incapable of being delivered as a result of the Order works. In paragraph 2.4 of his rebuttal proof,<sup>127</sup> Mike Pedley responds to the point raised by Mr Bottomley in paragraph 4.08 of his evidence. Mr Thomas confirmed that the works required to the goods lift would be limited to protective works for earthing purposes.
136. Mr Billingsley in his rebuttal refutes the assertion that the Order scheme would prejudice the future viability of redevelopment and conversion of the listed warehouse. Overall, HD1's position lacks credibility. They own a listed building as a development opportunity which has yet to be realised after at least 15 years. There is no evidence from HD1 to show that development of the warehouse is a realistic prospect in the short or medium term. It is clear from the experience of Kirklees Council's Huddersfield Blueprint initiative that there remains considerable uncertainty and a lack of consensus among stakeholders as to the redevelopment of the area to the north west of the Station. Far from being a brake on redevelopment, it is far more credible to see the Scheme as a likely catalyst for such development (see paragraph 139 below). It is perhaps unsurprising that HD1 chose not to appear at the Public inquiry and face questions about the lack of credibility of their stated objections. We have responded to Mr Bottomley's points on heritage matters above.

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<sup>127</sup> NR/PoE/REB/MP/03

Obj 25: Kirklees Cycling Campaign and Supp/3: Huddersfield Unlimited / Civic Society

137. The only significant case made in response to the works for which the Order seeks authorisation was that advanced by Kirklees Cycling Campaign (Obj/25) and supported by Huddersfield Unlimited and Civic Society (Supp/03). Those parties criticised what they saw as the lack of ambition in failing to include works for the development of a station entrance to the north-western side of Huddersfield Station within the scope of the Order. Both confirmed in oral evidence that they supported delivery of the operational enhancements to the existing railway which the Order seeks to deliver. But they wished Network Rail to go further and to deliver a new station entrance as the catalyst for delivery of Kirklees Council's aspiration for a new Station Gateway (see NR41).
138. The dilemma facing those "critical friends" is that expanding the scope of the Order beyond its stated core objectives inevitably gives rise to the need to modify the Order. For that to be achieved in practice, it would be necessary to revisit the design of the Scheme, the land acquisition and possession requirements and the environmental impact assessment. Those tasks inevitably entail significant delay to the making of the Order and the delivery of the Scheme. But it is common ground that early delivery of the Scheme is a pressing objective in order to achieve much needed improvements to the operation of the Transpennine railway. Indeed if the Order limits were to expand to secure CPO of land or rights not included in the Order in its current form, but needed to deliver a new station entrance and facilities to the north-west (including land owned by HD1 Developments Ltd), a fresh application would be likely to be necessary (section 14 of the Acquisition of Land Act 1981).
139. It is possible to envisage a situation in which the case for extension of the scope of a submitted Transport and Works Act Order application was so obviously compelling that it overrode the resulting uncertainty and delay to delivery of the works for which application had in fact been made. The present case is emphatically not such an exceptional case. The Station Gateway is at best an inchoate policy aspiration. The Blueprint document (NR41) foundered because a key landowning stakeholder (HD1 Developments – Obj/23) apparently had such strong reservations that it was willing to contemplate legal proceedings against it. There is no plan or brief for the Station Gateway against which to promote works for a new station entrance under an extended version of the Order. Conversely, the Order does make "passive" provision to enable the future planning and development of a scheme for the Station Gateway to come forward and provide access to Huddersfield Station from the north-west, both via an extended subway and footbridge. In these circumstances, it is

correct for Mr Rivero and Mr Thomas to say that the Order does not prejudice the future delivery of the Station Gateway aspiration in whatever form it may in due course be promoted. In fact, the Order facilitates it to the limited degree that is justified and proportionate given the inchoate stage of that regeneration aspiration. It was, however, correct and reasonable for Mr Chas Ball to acknowledge on reflection that, in the circumstances as they now are, the right course is to proceed with the making of the Order and delivery of the Scheme in its current scope and form; since to delay and to put in jeopardy the improvements to be delivered by the Order would be a clear misjudgment of where the public interest lies. That assessment is only reinforced by the subsequent publication of the IRP.

Obj 27: Charities Property Fund

140. Network Rail has offered a unilateral undertaking to the Charities Property Fund with commitments to address the issues raised in their objection: see Appendix 2 to INQ/3A.

Obj 30: DG Asset Enterprises Ltd, Obj 34: Taurus Investments, Obj 37: Mamas and Papas

141. Network Rail has offered unilateral undertakings to DG Asset Enterprises, Taurus Investments and Mamas and Papas, with commitments to address the issues raised in their objections: see Appendices 3 and 4 to INQ/3A.

Obj 36: Dewsbury Riverside Limited

142. As Network Rail has made clear through its evidence, the works at Ravensthorpe will not preclude either the implementation of the existing planning permission for 120 houses to the western side of the allocation; nor the wider housing allocation HS61 of the Local Plan. This is discussed in section 8.3 of Tony Rivero's proof and in section 5.3 of the Calder Road Design Refinement Report: see section 5.3 of INQ/24. Network Rail wrote to the objector on 5 July 2021 explaining the position: see Appendix 5 of INQ/3A.

Obj 42: Veolia

143. Veolia's objection is addressed at paras 56(v) and 57(v) above. A copy of the commitments offered to Veolia, with a presentation showing the proposed construction sequencing is at INQ/30.

Obj 44: Mrs Newton

144. A new access to Mrs Newton's property (Obj/44) will be provided before the existing access passing through the Occupation Underbridge can lawfully be stopped up under the powers of the Order. Network Rail has written to Mrs Newton confirming that replacement access will be provided: see Appendix 6 to INQ3.

Conclusion

145. Network Rail respectfully invites 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 without delay.

Timothy Mould QC

Jacqueline Lean

Landmark Chambers

3 December 2021

Incorporating oral amendments, and some typographical and referencing corrections