

ADDLESHAW GODDARD

Your reference EN010062
Our reference JARVM/43283-1579

15 January 2015

The Planning Inspectorate
3/18 Eagle Wing
Temples Quay House
2 The Square
Bristol
BS1 6PN

BY E-MAIL ONLY: PTPower@infrastructure.gsi.gov.uk

Dear Sir

**Application by Tata Steel UK Limited (Applicant) for an Order Granting Development Consent for Internal Power Generation Enhancement for Port Talbot Steelworks
Written Representation of Network Rail Infrastructure Limited (Network Rail)**

We act on behalf of Network Rail in this matter. Please find enclosed the written representation of Network Rail regarding the above application.

Notification of wish to attend a hearing

Please take this letter as notification that we would like to attend and make representations at the specific hearings on the draft DCO and compulsory acquisition on behalf of our client. Should we be in a position where the necessary agreements between our client and the Applicant are progressing to the satisfaction of our client we will inform the Examining Authority that Network Rail no longer intends to be represented at the hearings.

Yours faithfully



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10-5067880-1/43283-1579

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Application by Tata Steel UK Limited for an Order Granting Development Consent for the Internal Power Generation Enhancement for Port Talbot Steelworks

Written Representation submitted on behalf of Network Rail Infrastructure Limited

Planning Inspectorate Reference No: EN010062

1 Introduction

- 1.1 This written representation is submitted on behalf of Network Rail Infrastructure Limited (**Network Rail**) in response to the application by Tata Steel UK Limited (**Applicant**) for the Port Talbot Steel Works (Power Generation Enhancement) Development Consent Order (**Proposed DCO**) (**Written Representation**). The Proposed DCO seeks development consent for the construction and operation of an electricity generating station on the site of the Port Talbot Steelworks (**Proposed Development**).
- 1.2 Network Rail owns, operates and maintains the railway infrastructure of Great Britain. Network Rail operates the railway infrastructure pursuant to a network licence granted under section 8 of the Railways Act 1993.
- 1.3 Network Rail does not object in principle to the Proposed DCO. However, Network Rail objects to the compulsory acquisition and extinguishing of rights in operational land on which it relies for the carrying out of its statutory undertaking
- 1.4 Network Rail also objects to the seeking of powers to carry out works in the vicinity of the operational railway without first securing appropriate protections for Network Rail's statutory undertaking
- 1.5 In order for Network Rail to be in a position to withdraw its objection to the Proposed DCO Network Rail requires that:
- (a) Agreement that the acquisition of rights over operational land (including the extinguishment of any rights) is on terms agreed with Network Rail for the protection of its statutory undertaking and that compulsory powers will not be exercised in relation to such land; and
 - (b) Sufficient protection for its statutory undertaking is put in place for the carrying out of works in the vicinity of the operational railway network.
- 1.6 Network Rail and the Applicant have been in discussions regarding certain points of objection to the Proposed DCO which are set out in detail in this Written Representation.

2 Compulsory acquisition of rights over operational land

- 2.1 Network Rail has interests in plots 01/07 and 02/04 as identified on the Land Plans submitted with the application for the Proposed DCO. Protective provisions have been included within Part 1 of Schedule 4 to the Proposed DCO protecting the interests of Network Rail. This Part provides that the Applicant is not to exercise certain powers conferred by the DCO in respect of any railway property unless the exercise of such powers is with the consent of Network Rail, Article 13 of the Proposed DCO (Compulsory acquisition of rights) is one of the proposed powers qualified within this Part.
- 2.2 Network Rail and the applicant have discussed that appropriate arrangements will need to be agreed for an option to grant an easement and a form of easement to provide the Applicant with the necessary rights over plots 01/07 and 02/04. Negotiations between Network Rail and the Applicant to agree these documents are on-going. Network Rail can see no reason why compulsory powers should be necessary to give effect to the Proposed Development.
- 2.3 In light of the above Network Rail is hopeful the matter can be resolved through the course of negotiations with the Applicant. However, in the absence of reaching agreement to safeguard

its interests, Network Rail, as an interested party, seeks to be heard at the compulsory acquisition hearing and at any further issue specific hearings on the Proposed DCO.

- 2.4 Article 16 of the Proposed DCO is headed "*Time limit for exercise of authority to acquire land compulsorily*". The powers contained within the Proposed DCO provide for the acquisition of rights over land only and there are no proposed powers for the acquisition of land. This heading will need to be amended to clarify that no rights to compulsorily acquire land are sought in the Proposed DCO. Network Rail has mentioned this to the Applicant and requests that it seeks an amendment to the Proposed DCO.

3 Protective provisions

- 3.1 The agreed standard form of protective provisions for the benefit of Network rail have been included within the Proposed DCO, save that paragraph 5(1) of those provisions should appear as paragraph 4(5). Network Rail has highlighted this to the Applicant and requests that it seeks an amendment to the Proposed DCO to reflect this typographical error.
- 3.2 Network Rail reserves its position, in both representations and submissions at hearings, to seek this amendment and to ensure that protective provisions remain in the Proposed DCO for the benefit of Network Rail's operational infrastructure affected by the Proposed Development

4 Asset protection

- 4.1 Network Rail will not be in a position to withdraw its objection to the proposed DCO unless sufficient protections are put in place for the carrying out of work in the vicinity of the operational railway. The proposed DCO includes works which cross over the Ogmere Vale railway in two locations with utilities pipes and a 66kV electrical cable respectively. These works comprise both temporary use of Network Rail's land during the construction phase as well as works of a permanent nature.
- 4.2 In respect of all of these works, Network Rail requires asset protection agreements to be put in place to secure:
- (a) that no works shall be carried out without Network Rail's prior approval of the plans, specification, method statement and programme of works;
 - (b) full access rights, during both the construction and operation phases, are retained for the benefit of Network Rail to enable the carrying out of all necessary maintenance, repair, renewal, inspection and enhancement works;
 - (c) recovery of Network Rail's legal and professional fees, costs and disbursements incurred in connection with the proposals to carry out the works and any other costs incurred by Network Rail arising out of the construction, operation and maintenance of the works; and
 - (d) no work will be carried out unless and until all consents, licences, registrations and authorisations (including any statutory or regulatory consents) are in place.
- 4.3 Network Rail requires these protections to be secured prior to any third party works being undertaken on, or in, proximity to operational land.

5 Conclusions

- 5.1 Network Rail does not object in principle to the Proposed Development. However it strongly objects to the proposed compulsory acquisition of rights over operational land. Network Rail is in discussions with the Applicant. Until such time as Network Rail is given the protection and assurances requested as detailed in this Written Representation it's objection to the Proposed DCO will not be withdrawn.

Addleshaw Goddard

15 January 2015