

**Application by Highways England (Applicant) for an Order granting Development Consent for the A1 Birtley to Coal House Improvement Scheme**

**Planning Inspectorate Reference Number: TR010031**

**Registration Identification Number: 20023039**

**Summary of Written Representation submitted on behalf of Network Rail Infrastructure Limited (Network Rail)**

- 1 Network Rail does not object in principle to the Proposed Development subject to the outcome of Network Rail's internal clearance process and the requirements of any regulatory consents.
- 2 Network Rail requests that the Protective Provisions appended to its Written Representation be included in the DCO at Part 3 of Schedule 3.
- 3 Network Rail welcomes the exclusion of compulsory acquisition of its land and rights over its land and other DCO powers in respect of its land without its consent, as provided by Paragraph 21 of the Protective Provisions submitted by the Applicant.
- 4 Given the potential risk of major accidents during the installation and operation phases of the Proposed Development, Network Rail considers it to be of utmost importance that full protections are first put in place and that the Proposed Development should proceed by way of agreement rather than compulsory acquisition.
- 5 Further, the Secretary of State cannot allow the DCO to be granted without protection for Network Rail from compulsory acquisition as the test in section 127 of the Planning Act 2008 cannot be satisfied. The granting of compulsory acquisition powers to the Applicant would result in serious detriment to Network Rail's undertaking; would raise significant health and safety concerns for the general public; and Network Rail does not have any other land available to it which could be used to avoid such detriment.
- 6 Network Rail is in ongoing discussions with the Applicant regarding the DCO, the extent of land and rights required in order to undertake the Works and the property agreements and Protective Provisions that will be required to enable its delivery.
- 7 Should sufficient progress regarding the Protective Provisions and private agreements to be entered into not be made between the parties in the coming weeks, Network Rail will request to be heard at an appropriate hearing to explain in detail the impacts of the Proposed Development. Network Rail will of course respond to any Written Questions that the Panel wishes to ask.

**Addleshaw Goddard LLP**

**4 February 2020**