

A66 Northern Trans-Pennine Project

Issue Specific Hearing 2 - Thursday 1 December 2022

Name and Unique Reference Number	Katie Moffatt, Senior Associate at Eversheds Sutherland LLP on behalf of Network Rail Infrastructure Limited - URN 20032019
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Name and unique reference number of any person/organisation that you are representing	Network Rail Infrastructure Limited - URN 20032019
Confirmation of hearing you wish to participate in	Issue Specific Hearing 2 - Thursday 1 December 2022
Confirmation of whether you will participate virtually or in person	Attendance in Person Katie Moffatt - Senior Associate at Eversheds Sutherland LLP Roger Brighthouse - Senior Surveyor, Major Projects, Property (North West and Central Region), Network Rail Infrastructure Limited
Agenda items on which you wish to speak	Agenda Item 4 - The draft Development Consent Order
List of the points you wish to make	This is set out in Paragraph 1 of this Document

1. Brief details of topics Network Rail wish to raise

1.1 The brief details of the topics Network Rail wish to raise on Agenda Item 4 are:-

- *To confirm Network Rail's status and statutory responsibilities* - Network Rail is the statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate. Network Rail owns and operates Great Britain's railway network and has statutory and regulatory obligations in respect of it. Network Rail aims to protect and enhance the railway infrastructure and therefore any proposed development on, over or under the railway network or which is adjacent to and interfaces with the railway network or potentially affects Network Rail's land interest will be carefully considered.
- *To confirm objections to the Promoter's uncontrolled exercise of the statutory powers to be conferred by or incorporated within the draft DCO and/or the Promoter's uncontrolled exercise of statutory powers in connection with the DCO application over Network Rail's operational railway* - Network Rail objects to current uncontrolled operation by the Promoter in relation to Network Rail's operational railway of the powers contained in the following articles of the draft DCO: Article 13 (discharge of water); Article 14 (protective works to buildings); Article 15 (authority to survey and investigate the land); Article 17 (felling or lopping of trees and hedgerows); Article 19 (compulsory acquisition of land); Article 22 (compulsory acquisition of rights and restrictive covenants); Article 23 (private rights over land); Article 24 (power to override easements and other rights); Article 27 (acquisition of subsoil, etc. only); Article 28 (rights over or under streets); Article 29 (temporary use of land for constructing the authorised development); Article 30 (temporary use of land for maintaining the authorised development) and Article 31 (statutory undertakers). Network Rail also objects to the uncontrolled operation by the Promoter of statutory powers either incorporated within the draft DCO or in connection with the DCO application, namely the powers as set out in section 11(3) (power of entry) of the Compulsory Purchase Act 1965;

the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016; the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016; and any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017.

- *To confirm Network Rail's principal requests as regards the drafting of the DCO - Network Rail's principle requests relate to:*
 - Network Rail's concerns that the Promoter has omitted to include Network Rail's standard form of Protective Provisions in the draft DCO. It is standard practice for such Protective Provisions for the protection of Network Rail and its operational railway to be included in DCOs which authorise development which impacts Network Rail's operational land. Such provisions have been included in recent DCOs promoted by the Promoter where Network Rail's operational land and apparatus have been impacted including the A1 Birtley to Coal House Development Consent Order 2021 and A428 Black Cat to Caxton Gibbet Development Consent Order 2022.
 - A requirement for the draft Order to include Network Rail's standard form of its Protective Provisions for the protection of Network Rail and its operational railway and associated railway infrastructure and to manage the interface between the proposed development and Network Rail's operational land. The purpose of these Protective Provisions being to protect Network Rail against the Promoter compulsorily acquiring or acquiring rights in Network Rail's operational land, extinguishing Network Rail's existing rights or taking temporary possession of Network Rail's operational land without the consent of Network Rail. The Protective Provisions will also provide for Network Rail's prior approval of works affecting Network Rail railway property, processes for managing electro-magnetic interference, the payment of Network Rail's costs and the provision of indemnities.
- 1.2 Network Rail reserves its position to raise any other matters in relation to this Agenda Item which may arise in consequence of ongoing discussions with the Promoter.