

**A66 Northern Trans-Pennine Project**

**Compulsory Acquisition Hearing 1 - Friday 2 December 2022**

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<b>Name and unique reference number of any person/organisation that you are representing</b>	Network Rail Infrastructure Limited - URN 20032019
<b>Confirmation of hearing you wish to participate in</b>	Compulsory Acquisition Hearing 1 – Friday 2 December 2022
<b>Confirmation of whether you will participate virtually or in person</b>	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 Item 3 – Summary of DCO Provisions Agenda Item 7 – Statutory Undertakers
<b>Agenda items</b>	
<b>Network Rail relevant Plot Numbers</b>	This is set out in Paragraph 1 of this Document
<b>List of the points you wish to make</b>	This is set out in Paragraph 2 of this Document
<b>Examination Library of documents</b>	This is set out in Paragraph 3 of this Document

**1. Network Rail Plot Nos.**

1.1 Plots shown on Land Plans Scheme 0102 M6 Junction 40 to Kemplay Bank:

- 0102-01-01
- 0102-01-02
- 0102-01-08
- 0102-01-10

1.2 Plots shown on Land Plans Scheme 0405 Temple Sowerby to Appleby:

- 0405-07-47
- 0405-07-59
- 0405-07-66
- 0405-07-74
- 0405-07-78
- 0405-07-81
- 0405-07-88
- 0405-07-89
- 0405-07-91

## 2. Brief details of topics Network Rail wish to raise

### *Agenda Item 3 – Summary of DCO Provisions*

2.1 The brief details of the topics Network Rail wish to raise on Agenda Item 3 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 Network Rail's 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 14 (protective works to buildings); Article 15 (authority to survey and investigate the land); 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 objection to the proposed compulsory acquisition, temporary possession or use of Network Rail's railway property* - In particular that the compulsory acquisition, temporary possession or use of Network Rail's existing operational land must only be exercised with Network Rail's prior consent. The requirement for Network Rail's prior consent is needed to ensure the use of operational railway land accords with the statutory requirements imposed on Network Rail as operator of the railway network to ensure the safe operation of the railway.
- *To confirm Network Rail's principal objection to the proposed extinguishment of Network Rail's existing rights over land* - In particular existing rights which Network Rail exercise for the purpose of the operation of the railway can only be extinguished with the prior consent of Network Rail. The requirement for Network Rail's prior consent is needed to ensure that the rights operated by Network Rail to ensure the safe operation of the railway are not extinguished or otherwise impeded.
- *To confirm Network Rail's 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* - In particular so that such Protective Provisions 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. 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.

- 2.2 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

*Agenda Item 7 – Statutory Undertakers*

- 2.3 The brief details of the topics Network Rail wish to raise on Agenda Item 7 are:-

- *To confirm Network Rail’s requirement for the Promoter to enter into future agreements with Network Rail* – In particular Network Rail will require the Promoter to enter into a Framework Agreement to protect Network Rail’s interests. The Framework Agreement will amongst other matters address the application of Network Rail’s standard Protective Provisions to the Promoter’s construction, maintenance and operation of the proposed scheme, make provision to regulate Network Rail’s transfer of land, grant of rights over land or consent to use land for the purposes of the proposed scheme and to make provision for the completion of such asset protection agreements required by Network Rail to ensure the safe operation of the railway.

- 2.4 Network Rail reserves its position to raise any other matters in relation to this Agenda Item which may arise in consequence of from ongoing discussions with the Promoter.

**3. Examination Library**

- 3.1 Network Rail may refer to the following documents during the Hearing:

- 3.1.1 APP-011 2.5 General Arrangement Drawings Scheme 0102 M6 Junction 40 to Kemplay Bank
- 3.1.2 APP-013 2.5 General Arrangement Drawings Scheme 0405 Temple Sowerby to Appleby
- 3.1.3 APP-252 4.4 Consultation Report
- 3.1.4 APP-260 4.4 Consultation Report Annex H: List of prescribed consultees identified and consulted
- 3.1.5 APP-261 4.4 Consultation Report Annex I: S42 letters and enclosures with date
- 3.1.6 APP-271 4.4 Consultation Report Annex N Tables evidencing regard had to consultation responses
- 3.1.7 APP-273 4.4 Consultation Report Annex P Tables evidencing regard to supplementary consultation responses
- 3.1.8 APP-275 4.4 Consultation Report Annex R List of supplementary consultation consultees
- 3.1.9 APP-285 5.1 Draft Development Consent Order
- 3.1.10 APP-291 5.7 Book of Reference - Volume One: Scheme 0102: M6 Junction 40 to Kemplay Bank
- 3.1.11 AS-015 National Highways Response to Procedural Decisions concerning requests for additional information: 5.7 Book of Reference - Volume One: Scheme 0102: M6 Junction 40 to Kemplay Bank (Clean)
- 3.1.12 APP-293 5.7 Book of Reference - Volume Three: Scheme 0405: Temple Sowerby to Appleby
- 3.1.13 AS-017 National Highways Response to Procedural Decisions concerning requests for additional information: 5.7 Book of Reference - Volume Three: Scheme 0405: Temple Sowerby to Appleby (Clean)

- 3.1.14 APP-299 5.8 Statement of Reasons
- 3.1.15 APP-300 5.9 Compulsory Acquisition and Temporary Possession Schedule
- 3.1.16 APP-301 5.10 Schedule of Negotiations
- 3.1.17 APP-304 5.13 Land Plans Scheme 0102 M6 Junction 40 to Kemplay Bank
- 3.1.18 AS-013 National Highways Response to Procedural Decisions concerning requests for additional information: Updated Land Plans 5.13 Land Plans Scheme 0102 M6 junction 40 to Kemplay Bank
- 3.1.19 APP-318 5.16 Works Plans Scheme 0102 M6 Junction 40 to Kemplay Bank
- 3.1.20 APP-306 5.13 Land Plans Scheme 0405 Temple Sowerby to Appleby
- 3.1.21 AS-014 National Highways Response to Procedural Decisions concerning requests for additional information: Updated Land Plans – 5.13 Land Plans Scheme 0405 Temple Sowerby to Appleby
- 3.1.22 APP-320 5.16 Works Plans Scheme 0405 Temple Sowerby to Appleby
- 3.1.23 APP-326 5.17 Engineering Section Drawings Plan and Profiles Scheme 0102 M6 Junction 40 to Kemplay Bank
- 3.1.24 APP-328 5.17 Engineering Section Drawings Plan and Profiles Scheme 0405 Temple Sowerby to Appleby
- 3.1.25 APP-342 5.19 Rights of Way and Access Plans Scheme 0102 M6 Junction 40 to Kemplay Bank
- 3.1.26 APP-344 5.19 Rights of Way and Access Plans Scheme 0405 Temple Sowerby to Appleby
- 3.1.27 RR-063 Network Rail Infrastructure Limited Representation made on 25 August 2022