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Our Ref: TWA 8/1/6

31 October 2013

Dear Madam,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED NETWORK RAIL (REDDITCH BRANCH ENHANCEMENT) ORDER

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Examining Authority, Helen Adlard, who conducted an examination into the application made by Network Rail Infrastructure Limited ("NR") on 21 August 2012 for the Network Rail (Redditch Branch Enhancement) Order ("the Order") under sections 37, 114, 115, 117(4), 120 and 122 of the Planning Act 2008 ("the 2008 Act").

2. The examination of the application began on 7 January 2013 and was completed on 30 May 2013. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by a series of hearings held between 13 March and 17 April 2013 at Alvechurch.

3. The Order would grant development consent for the construction of a second railway track 3.2 kilometres long running alongside the existing Redditch branch line in Worcestershire, between Alvechurch and Weights Lane to the north of Redditch. The Order would also authorise, among other things, a new platform and footbridge at Alvechurch station, the diversion of a public footpath near that station and the compulsory acquisition of land outside the control of NR. The scheme would enable an increase in train frequency on the branch line.

4. Enclosed with this letter is a copy of the Examining Authority's report. The proposed development is described in chapter 2 of the report. The Examining Authority's findings are set out in chapters 4 to 7 of the report, and her overall conclusions and recommendation are in chapter 8.

Summary of the Examining Authority's recommendation

5. The Examining Authority recommended that the Order be made, in the form set out in Appendix F to her report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act.

Secretary of State's consideration

7. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Examining Authority's report ("ER") and references to requirements are to those in Part 2 of Schedule 1 to the Order, as set out in Appendix F to the ER.

Legal and policy context

8. The Secretary of State has noted and agrees with the Examining Authority's assessment at ER 3.1-12 of the legal provisions to which he must have regard in deciding this application. In particular he agrees that the proposals in the application are not "EIA development" as defined in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (ER 3.5). The Secretary of State agrees further with the Examining Authority's assessment at ER 3.13-19 of the national and development plan policies that are relevant to this application and which she has taken into account in reaching conclusions on the issues raised by the application.

The need for the development

9. The Secretary of State agrees with the Examining Authority that the scheme would deliver the need identified in the West Midlands Route Utilisation Strategy for capacity enhancements on the Cross City South line, both to accommodate future demand and to improve the reliability of the service. He agrees with the Examining Authority that, in providing for an increase in the use of sustainable transport in the short and long term, the project is consistent with Government transport and planning policies. Taking into account also the strong support for the scheme in the Local Impact Reports of Worcestershire County Council ("WCC") and Bromsgrove District Council ("BDC"), in particular to meet increasing demand for train services as a result of planned housing developments, he agrees with the Examining Authority's conclusion that there is a clear need for the scheme (ER 4.13-16).

Green Belt

10. The Secretary of State notes that the scheme falls wholly within the Green Belt designated in the Bromsgrove District Local Plan. He agrees with the Examining Authority that, having regard to the permanent effects of the scheme on the openness of the Green Belt (particularly the new footbridge, lift towers and platform at Alvechurch station and the alterations to overhead lines for the second track), it should be classed as inappropriate development in the terms of the National Planning Policy Framework ("NPPF") (ER 4.17-23). However, for the reasons given at ER 4.26-28, he agrees with the Examining Authority that the need for the scheme comprises very special circumstances which would clearly outweigh the harm caused to the Green Belt in this location.

Nature conservation issues

11. The Secretary of State has considered the Examining Authority's findings at ER 4.30-42 in respect of the ecological impacts of the scheme, including the impacts on protected species, the loss of habitat such as mature trees, hedgerows and watercourses, and NR's mitigation proposals, particularly the Construction and Environmental Management Plan ("CEMP"). He agrees with the Examining Authority that the impacts of the scheme have been properly assessed and that the mitigation proposed in the Ecological Impact Report, which would be secured by the requirements and the licensing required in respect of European Protected Species, would ensure that adequate controls are in place.

12. The Secretary of State is accordingly satisfied that there would be no significant adverse impact on nature conservation as a result of the scheme and agrees with the Examining Authority that duties in respect of biodiversity under the Natural Environment and Rural Communities Act 2006 and the Habitats Directive would be fulfilled (ER 4.43-45). In this context, he notes the view of Natural England that there is no reason why licences for the movement of Great Crested Newts or bats would not be granted and is therefore satisfied that there would be no impediment to implementation of the scheme in this regard (ER 4.37-38).

13. The Secretary of State agrees with the Examining Authority that other impacts on the natural environment in relation to handling waste, ecology, drainage, contaminated land, groundwater and flood risk will be adequately controlled by mitigation secured through the requirements (ER 4.46-48).

Noise issues

14. The Secretary of State has considered the Examining Authority's findings at ER 4.49-65 on noise during the construction phase and on operational noise as a result of the scheme, including the impact of intensified use of the railway on "wheel squeal" at Barnt Green station. In this context he has had regard to the NPPF policy on noise resulting from new development. The Secretary of State agrees with the Examining Authority that in the light of the robust controls under requirement 4, including the nuisance management plan to control noise and vibration and restrictions on hours of working, and under the Control of Pollution Act 1974, the residual impact of construction noise would be acceptable (ER 4.67-68). As for operational noise, he notes that the likely increase in train services was predicted to result in a "minor" impact on properties closest to the line between Barnt Green and Alvechurch. He agrees with the Examining Authority that the harm likely to be caused is not sufficient to justify refusing consent for the scheme. He agrees further that, for the reasons given by the Examining Authority, it would not be reasonable to impose an additional requirement in relation to "wheel squeal" noise at Barnt Green (ER 4.69-70).

Traffic issues

15. The Secretary of State has noted NR's assessment of the temporary impacts of construction traffic on the road network and at dwellings adjacent to haul roads. He agrees with the Examining Authority that NR's proposals for mitigating the effects of additional traffic through the Traffic Management Plan, which is to be included in the CEMP, are robust and would minimise the impacts as far as possible (ER 4.71-76, 4.85).

16. With regard to requests for the provision of additional car parking at Barnt Green and Alvechurch stations, the Secretary of State notes that there is no survey evidence about the number of cars likely to use the stations following the introduction of extra train services, although NR considers there will not be a significant increase. He agrees with the Examining Authority that the appropriate way to address this issue is for NR and other relevant parties to take part in a station travel plan process after completion of the scheme. He has accordingly concluded, like the Examining Authority, that it would be unreasonable to refuse consent for the scheme on the basis that additional car parking has not been provided. However, the Secretary of State agrees with the Examining Authority that a requirement to carry out improvements to Alvechurch station car park to ensure that it can be fully used to its advertised capacity, is reasonably related to the proposed development and should be included in the Order (ER 4.77-93).

Footpath matters

17. The Secretary of State agrees with the Examining Authority that there is a strong case for extinguishing footpath 579(C) where it crosses the track at Alvechurch station on the level, given the increased risk to footpath users that would result from more frequent train services and the policy of the Office of Rail Regulation on removing level crossings. He agrees that the proposed alternative route by way of the new station footbridge would be safer and that the requirements of section 136 of the 2008 Act have been met. He is further satisfied that the other powers in the Order to extinguish or suspend footpaths are acceptable (ER 4.94-107).

Landscape and visual impact matters; station design and equality issues

18. The Secretary of State has considered and agrees with the Examining Authority's assessment of the effects of the scheme on the landscape character in the short, medium and long term. Like the Examining Authority, he recognises that a scheme such as this will inevitably have an adverse effect on the landscape character until screening as a result of replanting has matured. However, for the reasons given by the Examining Authority he agrees that in the medium to long term the changes brought about by the scheme would have a slight adverse effect overall on the landscape character and that this is not such as to merit refusing consent for the scheme (ER 4.108-125).

19. With regard to the proposed new footbridge and lift towers at Alvechurch station, the Secretary of State agrees with the Examining Authority that the alternative proposal of a long ramp would have a more severe adverse impact on the local landscape. While recognising the potential difficulties for disabled passengers that would be caused by lift failure at an unstaffed station, he agrees with the Examining Authority that the proposed arrangements would be proportionate and in accordance with the Department for Transport's Code of Practice "Accessible Train Station Design for Disabled People". More generally, he is satisfied that NR's design proposals for Alvechurch station are acceptable and comply with the requirements of the Equality Act 2010 (ER 4.126-135).

Conclusions on the case for development consent

20. Taking into account all the foregoing, the Secretary of State agrees with the Examining Authority that there is a clear justification for granting development consent for the scheme (ER 5).

Compulsory acquisition matters

21. The Secretary of State has considered the compulsory acquisition powers sought by NR against the tests concerning compulsory acquisition in sections 122 and 123 of the 2008 Act and other relevant legislation and guidance, and has taken into account the cases of the affected persons set out at ER 6.29-35. He agrees with the Examining Authority for the reasons she has given that there is a clear need for the scheme; that all of the land subject to the proposed compulsory acquisition powers is required to carry out the development; and that the interference with the human rights of the affected individuals and land interests is proportionate to the benefits of the proposed development (ER 6.44-53, 6.57-58). He accepts also that it is appropriate to authorise NR to extinguish rights in land already owned by NR in order to prevent possible delay to implementation of the scheme (ER 6.54-56). The Secretary of State is accordingly satisfied that the public benefits of the scheme outweigh the potential private loss and that there is a compelling case in the public interest to include all the compulsory acquisition powers sought by NR. He notes further that the scheme is fully funded and that there is therefore a reasonable prospect of funds being available to meet the costs of acquiring land and implementing the scheme (ER 6.15).

Draft Development Consent Order

22. The Secretary of State has noted the various changes made to the Order in the course of the examination and those recommended by the Examining Authority, as explained in chapter 7 of the ER. For the reasons given by the Examining Authority, he agrees that, subject to the further modifications referred to below, the provisions of the Order set out in Appendix F to the ER are appropriate for a railway scheme of this sort and should be included in the Order as made.

23. The Secretary of State has decided to make the following additional modifications to the form of the Order set out in Appendix F to the ER:

- to delete the words “unless otherwise approved by the relevant planning authority” in requirement 3(1) (development in accordance with approved details) and to delete requirement 20 (amendment to approved details) to ensure that there is sufficient certainty about the form of development that has been authorised, in the interest of precision and reasonableness; and
- various minor drafting changes to the Order which do not materially alter its effect, including further changes to conform with the current practice for drafting Statutory Instruments and changes in the interests of clarity and consistency.

Representation since examination

24. The Secretary of State has received one representation since the examination closed from an interested party on the subject of “wheel squeal” at Barnt Green referred to at paragraph 14 above. He does not consider that this constitutes new evidence, or raises a new issue, which needs to be referred to other interested parties before he proceeds to a decision. It does not cause him to take a different view on the matters before him than he would otherwise have taken based on the Examining Authority’s report.

Secretary of State's conclusions and decision

25. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the construction of the Redditch Branch Enhancement scheme. While he recognises that the scheme would have a number of adverse impacts as identified by the Examining Authority, taking into account the mitigation measures that would be secured by the Order, he does not consider that any of those impacts would be unacceptable. The Secretary of State is satisfied that, overall, the benefits of the scheme clearly outweigh its likely adverse impacts.

26. The Secretary of State has accordingly decided to accept the Examining Authority's recommendation at ER 8.3 and is today making the Order granting development consent and imposing the requirements as proposed by the Examining Authority, but subject to the modifications referred to at paragraph 23 above. He confirms that, in reaching this decision, he has had regard to the Local Impact Reports prepared by WCC and BDC, any matters prescribed by Regulations under the 2008 Act that are relevant to the proposed development, and any other matters which he considers important and relevant to his decision, as required by section 105 of the 2008 Act (decisions in cases where no national policy statement has effect).

Challenge to decision

27. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

28. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act.

Yours faithfully,

Martin Woods

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks from the date when the Order is published. The Network Rail (Redditch Branch Enhancement) Order 2013 (as made) is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/west-midlands/redditch-branch-enhancement-scheme/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).