

1 Introduction

- 1.1 This document comprises the written representations for and on behalf of Freightliner Limited (**'Freightliner'**) in respect of the application (**'the Application'**) for a Development Consent Order (**'the Proposed Order'**) for the delivery of the Portishead Branch Line (MetroWest Phase 1). The Application was submitted and is being promoted by North Somerset District Council (**'the Applicant'**) in consultation with Network Rail Infrastructure Limited (**'Network Rail'**) and has been allocated Planning Inspectorate reference TR040011. The delivery of the Proposed Scheme includes works proposed to be carried out by Network Rail as particularised in Part 9 of the District Council's Explanatory Memorandum.
- 1.2 Freightliner's relevant representations (**'RRs'**) dated 26 February 2020 set out the basis on which Freightliner objects to the inclusion in the Proposed Order of powers to temporarily possess land forming part of its Bristol terminal at South Liberty Lane, Bedminster, Bristol BS3 2ST and identified in the Land Plan at plots 17/05, 17/10, 17/15 and 17/20.
- 1.3 The Applicant responded to the RR's in April 2020 (**'the Response'**) (the Response is not dated).

2 Plots 17/05 and 17/20

- 2.1 Plots 17/05 and 17/20 are required by Network Rail for the purposes of temporary construction compounds or for the storage of materials. As noted in the RR's, Freightliner has no objection to the use of those plots for those purposes but considers that it is unnecessary for temporary possession powers to be sought by the District Council/Network Rail in circumstances where Freightliner are willing to enter into leases with Network Rail for those plots.
- 2.2 Freightliner and Network Rail have been in negotiations since 29 January 2020 in respect of heads of terms for options for sub-leases of the two plots. The heads of terms are largely agreed save as to the option periods and associated consideration. The last substantive correspondence comprised an email dated 15 September 2020 from Mr Matt Hill, Group Property Manager for Freightliner to Mr Rob Jenkins, Senior Surveyor for Network Rail attaching amended heads of terms. Mr Hill noted the need to control the option period timeframes and break options to avoid valuable land being blighted with no income, or consideration needing to be agreed to reflect the period of blight. Mr Jenkins responded on 28 September 2020 that he understood the reasons for Mr Hill's position but was waiting to hear back from the project team and needed to get consensus to the dates proposed from Network Rail from a construction perspective and from North Somerset as promoter. Despite a chasing email from Mr Hill on 21 October 2020, no further substantive comments have been provided by Mr Jenkins.
- 2.3 Temporary possession powers should not be granted in circumstances where negotiations for a lease of the land are not progressed by a promoter or its partner.

3 Plots 17/10 and 17/15

- 3.1 Freightliner welcomes the undertaking by the District Council in the Response that it will not seek exclusive possession of plots 17/10 and 17/15. The Response noted that the District Council will ask the Secretary of State to amend the draft DCO before it is made so that powers over plots 17/10 and 17/15 can only be exercised so as to provide a means of access.
- 3.2 With respect to plot 17/15, for the reasons set out in RRs, Freightliner has no objection to providing a means of access to the District Council/Network Rail and indeed has included that as a requirement in the heads of terms for leases of plots 17/05 and 17/20. However, the location of plot 17/15 is unacceptable as it would unduly disrupt the commercial operations of Freightliner and its tenants.
- 3.3 Powers over plot 17/15 should not be granted in circumstances where Freightliner are prepared to voluntarily grant access and it prevented from doing so only because Network Rail are not progressing negotiations.

4 Conclusion

- 4.1 The Examining Authority and the Secretary of State should be satisfied that the District Council and Network Rail have taken all reasonable steps to negotiate with Freightliner. If they are not so satisfied, powers over plots 17/05, 17/10, 17/15 and 17/20 should be removed from the Order.
- 4.2 Freightliner are willing to continue negotiations for options for sub-leases of plots 17/05 and 17/20 including means of access to those plots and it is hoped that the District Council will encourage Network Rail to progress those negotiations to a conclusion before the examination closes.
- 4.3 Freightliner reserves the right to make further representations as appropriate and wishes to attend the compulsory acquisition hearing on 4 December 2020.

Town Legal LLP on behalf of Freightliner Limited
23 November 2020