

**PLANNING ACT 2008**  
**INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

**APPLICATION FOR THE WEST MIDLANDS INTERCHANGE**  
**DEVELOPMENT CONSENT ORDER**

**Planning Inspectorate Reference: TRO 50005**

---

**Summary of Written Representations of**  
**NETWORK RAIL INFRASTRUCTURE LIMITED**  
**for Deadline 2 of the Examination**

---

**5 April 2019**

## **1. NETWORK RAIL**

- 1.1 The terms in this summary are as defined in the written representations submitted by Network Rail on this date (**Written Representations**).
- 1.2 Network Rail has submitted the Written Representations to the Examining Authority in respect of the Application.
- 1.3 The Written Representations have been submitted by Network Rail in its capacity as owner and operator of the rail infrastructure of Great Britain and pursuant to Network Rail's obligations in holding the Network Licence.

## **2. SUMMARY OF WRITTEN REPRESENTATIONS**

- 2.1 Below is a summary of the points raised by Network Rail in the Written Representations.

### **2.2 Protective Provisions**

- 2.2.1 There are protective provisions for the benefit of Network Rail which are well precedented both in orders under the Transport and Works Act and in development consent orders.
- 2.2.2 The Protective Provisions work to encourage and require the Applicant to enter into private treaty agreements with Network Rail in order to obtain the rights and interests it requires for the Application. The agreements used are based on precedents that are publicly available and regulated by the ORR. This system is transparent and has a track record of delivery infrastructure.
- 2.2.3 Network Rail requires its standard form of Protective Provisions to be included in the Draft DCO. The standard form Protective Provisions are included at Annex 1 of the Written Representations.

### **2.3 Bridge and Culvert**

- 2.3.1 Whilst Network Rail has received internal Business and Technical clearance for the proposed new bridge and culvert which form part of the Application, this is an in-principle agreement only. The Applicant has not yet provided Network Rail with sufficient details or information to allow it to fully consider the proposals and carry out internal consultation, or receive approval from the ORR.
- 2.3.2 Once the detailed information is provided by the Applicant Network Rail will require time for the scheme and land requirements to be fully reviewed and considered.

### **2.4 Access to the WCML**

- 2.4.1 Article 28 of the Draft DCO would extinguish without replacement Network Rail's RRAP Access and the Steps Access to the WCML. Access to the WCML via the RRAP Access and the Steps Access is integral to Network Rail's ability to maintain the WCML.
- 2.4.2 Network Rail requires details of what provision the Applicant has for the replacement of the RRAP, the RRAP Access and Steps Access to the WCML.
- 2.4.3 In addition, Network Rail requires confirmation that its access from the A5 Overbridge and from Station Drive to the north and south of the Application Site respectively, will not be affected by the proposed works. Both locations appear to be in the limits of land to be acquired or used but it is not clear what impact on these private means of access is proposed.

## **2.5 Height of Bridges – limits of deviation**

- 2.5.1 Network Rail is concerned about the vertical Limits of Deviation contained in Article 4 of the Draft DCO. Article 4(1)(b) may allow for the Applicant to move downwards the level of the proposed Gravelly Way bridges, and this could severely impact on the WCML.

## **2.6 Proposed temporary possession powers**

- 2.6.1 The Draft DCO contains powers of temporary possession. It is possible that, in relation to land under the ownership of Network Rail referred to in the written representations as Network Rail Land, these powers could be exercised against Network Rail's interest, and affect the operational railway.

## **3. CONCLUSIONS**

- 3.1 Without the inclusion of Network Rail's standard Protective Provisions, the confirmation of the DCO allowing the Applicant to acquire rights over and above Network Rail's operational railway, would significantly harm Network Rail's role and ability to undertake its obligations as Network Licence-holder.
- 3.2 In order to comply with its Network Licence, Network Rail requires any land and/or rights required for a scheme to be dealt with by private treaty via a series of template agreements.
- 3.3 Network Rail would be in a position to withdraw its representation to the Application in the event that:
  - 3.3.1 certain assurances which Network Rail has requested are provided to it by the Applicant; and
  - 3.3.2 the protective provisions are as set out in Annex 1 of the written representation.

Womble Bond Dickinson (UK) LLP

5 April 2019