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Our Ref: TWA/21/APP/03  
Your Ref:

Dear Sirs,

27 June 2022

## **TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED NETWORK RAIL HUDDERSFIELD TO WESTTOWN (DEWSBURY) 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 Inspector, Mr Paul Singleton BSc MA MRTPI, who held an inquiry between 2 November 2021 and 8 December 2021, into the application by your clients, Network Rail Infrastructure Limited (“NR”) for;

- a) the Network Rail Huddersfield to Westtown (Dewsbury) Order (“the Order”) to be made under Sections 1 and 5 of the Transport and Works Act 1992 (“TWA”); and
- b) a direction granting Deemed Planning Permission, subject to conditions, for the works that are subject of the Order.

2. The Order as applied for would confer powers on NR for the construction, operation and maintenance of works on the North Transpennine railway line between Huddersfield and Westtown (Dewsbury) for the purposes of increasing capacity and improving both journey times and the performance reliability of railway services on the route between Huddersfield and Westtown (Dewsbury) and between Manchester, Leeds and York (“the Scheme”). The Order would authorise NR to acquire land, subsoil of land, airspace, ground anchor rights and interests in land, including the imposition of restrictive covenants, and to temporarily acquire and temporarily use land for the purposes of the works authorised by the Order. The Order would also confer powers in connection with the construction and operation of the railway.

3. The Secretary of State for the Department for Levelling Up, Housing and Communities (“DLUHC”) will be issuing his decisions alongside this decision in respect of the associated application for an open space certificate under Section 19 of the Acquisition of Land Act 1981 and the nine applications for Listed Building Consent under Section

12(3A) of the Planning (Listed Buildings and Conservation Areas) Act 1990 alongside this decision.

### **Summary of Inspector's recommendations**

4. The Inspector recommended that the Order should be made, and that deemed planning permission should be granted subject to conditions.

### **Summary of Secretary of State's decision**

5. For the reasons given in this letter, **the Secretary of State has decided to make the Order with modifications and to give the Planning Direction, subject to conditions set out in Annex A to this letter.**

### **Secretary of State's consideration**

6. Careful consideration has been given to all the arguments put forward by, or on behalf of, the parties. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs. All other paragraph references, unless otherwise stated, are to the Inspector's Report ("IR"). Where not stated in this letter the Secretary of State can be taken to agree with the Inspector's findings as set out in the report, the reasons for the Secretary of State's decision are those given by the Inspector in support of the conclusions and recommendations.

### **Procedural Matters**

7. Due to Covid restrictions during the pandemic, the Applicant applied to the Secretary of State for a waiver direction to disapply certain requirements under Rules 14(2), 14(4), 14(5)(e) and 14(10) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the 2006 Rules"). NR put measures in place to ensure that documents were available. These measures included providing a website where application documents could be inspected throughout the objection period, including details of the website on the statutory notices, and providing a telephone number in the statutory notices and on the website so that hard copies of the documents could be requested. At the opening of the inquiry, there were 34 remaining objections to the draft Order, but by the close of the inquiry, the number of remaining objections had been reduced to 19. A further 5 subsequently withdrew their objections following the close of the inquiry.

8. However, the Secretary of State notes that on 13 May 2021, a representation submitted by Gately Hamer on behalf of Kinder Properties Limited (OBJ/15) questioned whether the statutory procedures had been complied with as the Rule 15 Notice served on Kinder Properties only cited Order plots in relation to their freehold interests and occupier interests but did not take account of other land parcels in the Castlegate Retail Park which appeared to be required for the Scheme. The representation asserted that the Notice was deficient in not identifying all the relevant plots and all the legal interests in those plots (IR 1.26 and IR 1.29, 1.30).

9. The Secretary of State notes that the Inspector reviewed and considered the submissions made on this matter and that he is satisfied that the notices were correctly served in accordance with the requirements of Rule 15(1) of the 2006 Rules. The Secretary

of State agrees with the Inspector's view that all the statutory requirements in connection with the application for the Order, the associated applications and the notification of the date, time and venue of the inquiry were complied with (IR 1.36).

### **Purposes of the Order**

10. The Secretary of State notes that the Scheme is a core part of a wider programme of works known as the Transpennine Route Upgrade ("TRU"), a series of projects to upgrade the existing railway between Manchester, Huddersfield, Leeds and York. He further notes that the objectives of the TRU are to improve journey times and the capacity of the network between key destinations on the North Transpennine Railway ("NTPR"), improve overall resilience of the route, and provide environmental benefits through modal shift and the partial electrification of the NTPR (IR 2.9).

11. The Secretary of State notes that the Scheme relates to the section of the NTPR between Huddersfield and Westtown in Dewsbury, is located wholly within the administrative area of Kirklees Council ("KC") and constitutes Project W3 of the wider TRU scheme. He further notes that the key elements of the Scheme are the installation of a four track railway across most of the Scheme route, the provision of railway grade separation works at Ravensthorpe, works to the stations at Huddersfield, Deighton, Mirfield and Ravensthorpe, and the electrification of the full length of this section of the NTPR (IR 2.10 and IR 2.11).

### **The Aims, Objectives of and Need for the Scheme**

12. The Secretary of State notes NR's case for the Scheme at IR 3.1-3.13 which rests on the fact that the NTPR does not currently meet the needs of passengers or train operators and is unable to fulfil its role as a key rail transport artery serving Lancashire, Yorkshire and the North East. NR consider that the NTPR is in urgent need of improvement and the Scheme is critical to securing that improvement (IR 3.3). The Secretary of State also notes that the main benefits of the Scheme are set out in the Statement of Aims and the Statement of Case ("SOC") and these have been summarised in IR 3.14, IR 3.15 and IR 8.6 of the Inspector's report.

13. The Secretary of State notes that the existing route is almost entirely two track, with one track in the up direction (towards Manchester) and one in the down direction (towards Leeds). Due to the limited train paths available NR consider that there is insufficient capacity to increase the number of services using the route and the wider NTPR (IR 3.4 and IR 8.1). The Secretary of State notes that NR set out that there are also conflicting train movements where the Wakefield lines join the NTPR at Ravensthorpe and these conflicts need to be removed by means of grade separation to create the opportunity for increasing the frequency of trains services and to optimise the number of train paths through the junction between the two lines at Ravensthorpe (IR 3.7).

14. The Secretary of State acknowledges that train services regularly encounter congestion and delays on the Scheme route, resulting in performance and reliability issues for those services as the Inspector has summarised in IR 3.8. NR also set out that although journey times have been steadily improving on major railway lines across the country this has not been the case of the NTPR. The Secretary of State notes that the average "fast"

speeds on main-line routes should be in excess of 78mph rather than the 60mph on the Scheme route (IR 3.10).

15. The Inspector considered that there is clear and unchallenged evidence that the two track layout along most of the Scheme route acts as a very significant constraint on the efficiency and resilience of this section on the NTPR which has impacted the performance of passenger services for years (IR 8.1). The Inspector was of the view that the introduction of four track operation along most of the Scheme route and the segregation of the fast and slow lines are essential improvements if the current constraints are to be overcome (IR 8.2). The Inspector also considers that the upgrading of the route to enable trains to travel at the conventional 100mph on clear sections was necessary to achieve improvements in journey times between Manchester, Leeds and York in accordance with the Scheme objectives (IR 8.2). The Inspector concluded that the current route acts as a bottleneck along the wider NTPR (IR 8.1) and that the lack of capacity can only be addressed by means of a major upgrading of the route (IR 8.2).

16. The Secretary of State agrees with the Inspector's view that NTPR does not currently meet the needs of passengers (IR 8.3) and like the Inspector, the Secretary of State agrees with NR that NTPR is in urgent need of improvement and the Scheme is critical to securing this (IR 8.5), noting it is a critical part of the wider TRU programme (IR 8.3). Whilst the Secretary of State recognises that passenger numbers have reduced on this route, as on other sections of the railway network due to the pandemic, the Secretary of State agrees with the Inspector that passenger use of the NTPR will have surpassed pre-pandemic levels before the TRU programme, including the Scheme, is completed in 2028 (IR 8.4).

17. Overall, the Secretary of State agrees with the Inspector that the Scheme is demonstrably necessary in order to enable much needed improvements in passenger and freight services and is a key requirement to facilitate the wider TRU (IR 3.11). The Secretary of State notes that because of the issues and constraints on the current line, the NTPR is not well-placed to fulfil the key role that it should play in delivering the levelling up of the northern conurbations and in helping to make them a more coherent and productive economic entity (IR 3.12 and IR 8.3). The Secretary of State notes there is widespread support for the Scheme even from those objecting to specific elements (IR 8.9) and agrees with the Inspector that NR have set out a clear justification for all components of the Scheme (IR 8.5) and that the public benefits resulting from the Scheme will be substantial (IR 8.6).

### **The main alternative options considered by NR and the reasons for choosing the proposals included in this scheme**

18. The Secretary of State notes that the purpose and remit of the TRU is to address existing performance issues on the NTPR, to increase capacity on the route and to reduce journey times (IR 3.40 and IR 8.10). He further notes that the strategic alternatives considered by NR, including other potential rail and strategic highway schemes, are discussed in the Environmental Statement (ES) and in Section 4.4 of the Statement of Case (SoC). The Secretary of State notes that NR's ES concludes that there are no other strategic infrastructure schemes that could address the existing operational constraints on the NTPR or that could deliver the same benefits to the Train Operating Companies and their passengers and that the Inspector concluded that the objectives of the Scheme and

TRU could not be achieved by the carrying out of other strategic railway or highway schemes (IR 8.10). The Secretary of State agrees with that view and notes that no other party disputed this (IR 3.40 and IR 8.10).

19. The Secretary of State notes that the Inspector concluded NR's evidence has demonstrated the detailed assessment of alternative options carried out to achieve the operational requirements of the Scheme while seeking to minimise the potential adverse environmental impacts on owners and occupiers of land and property affected by the proposals (IR 8.11). The Secretary of State agrees with the Inspector and is satisfied that all reasonable and practicable alternative design and engineering options have been assessed and ruled out for good reason before final proposals which form the Scheme were adopted (IR 8.12).

### **The Likely Impact of the exercise of the Powers in the draft Order on Local Businesses, Tenants and Occupiers**

20. The Secretary of State notes that the corridor which accommodated the historic four track formation of the Scheme route is still within NR's ownership and control and that much of the infrastructure that carried that formation is intact which reduces the amount of additional third party land required. He further notes that the Scheme will nevertheless, have impacts for adjoining land owners, businesses, tenants and property but that the Inspector considered that the design and optioneering work undertaken prior to submission of the Application sought to limit these impacts (IR 3.44).

21. The Secretary of State notes that the Inspector concluded that there will be some impact on local businesses associated with the temporary closure or diversion of roads and rights of way but that: these had been assessed as part of NR's ES; the effects would be temporary in nature; and that the Inspector was satisfied that measures to minimise the adverse impacts would be put in place as part of the Construction Traffic Management Plan, to be prepared as part of the Code of Construction Practice and to be approved by KC under the conditions attached to the deemed planning permission (IR 3.50 and IR 8.48).

22. The Secretary of State notes that throughout the design process NR has sought, and will continue to seek, to reduce the impacts of the Scheme on neighbouring property and land as far as it is reasonable practicable to do so, which has enabled some objections to the proposals to be withdrawn (IR 3.51 and IR 8.14). The Inspector noted that a number of those remaining objectors are understood to have agreed heads of terms that might enable them to withdraw their objection but that they were treated as remaining objectors. As the Secretary of State is not aware that any of these objections have been withdrawn since the close of the Inquiry, the Secretary of State is also treating them as remaining objectors.

23. The Secretary of State has considered the Inspector's conclusion on the outstanding objections at IR 8.17-8.46 and agrees with the Inspector's conclusion on these. The Secretary of State notes that all other objections from business owners have been withdrawn and that no other effects on local businesses have been raised (IR 8.47).

24. The Secretary of State notes that NR has been working with KC to resolve the Council's concerns regarding highway disruptions and that a Statement of Common Ground ("SoCG") has been agreed with them which refers to the side agreements entered

into between the two parties. These include agreements relating to highway assets and how the interface between the Order Works and: (i) the Emerald Street Household Waste and Recycling Centre, and (ii) the Weaving Lane Waste Facility, is to be managed. The Secretary of State notes that as a result of these agreements, KC was able to withdraw its objections and confirm that it now supports the Scheme (IR 3.56).

25. The Secretary of State has had regard to the evidence presented to the Inquiry and is satisfied that NR have demonstrated that they have sought, to minimise disruption to businesses whose land is required on a temporary basis to facilitate the construction of the works. He notes that NR will continue to seek opportunities to reduce any adverse impacts where it is practicable to do so. He further notes that where landowners and occupiers incur financial loss as a result of the temporary possession of their land, or from temporary obstruction or interference with their private right of access, the affected party would be able to apply for compensation under article 34 of the Order (temporary use of land for construction of works) and Section 10 of the Compulsory Purchase Act 1965 (further provision as to compensation for injurious affection) (IR 3.59).

**The potential effects of the Scheme on cycling and walking and the normal and safer operation of Huddersfield Bus Station and on tenants and/or users of the Bus Station during construction including the impacts on local bus services.**

26. The Secretary of State notes that the concerns by the West Yorkshire Combined Authority (“WYCA”) regarding the potential effects on the operation of and planned improvements to Huddersfield Bus Station, and on bus services more generally as a result of the works, have been resolved. The Inspector concluded that the formal withdrawal of its objection and request that it should be registered as a supporter of the Scheme, demonstrates that WYCA has no outstanding concerns about these matters (IR 3.57, IR 4.14 – 4.18 and IR 8.49).

27. The Secretary of State notes the Scheme works are likely to have some adverse effects on walkers and cyclists because of the need for the temporary closure of sections of public rights of way (“PROW”). He further notes these impacts are likely to result in considerable level of inconvenience to some users of the PROW affected but, in all cases, the effect would be temporary and over a relatively short time. The Secretary of State notes and agrees with the Inspector’s view that these short-term impacts represent an acceptable level of disturbance to users given the scale and extent of the works (IR 8.50 and IR 8.51).

**The potential effects of the Scheme on statutory undertakers and other utility providers, and on their ability to carry out their undertakings effectively, safely and in compliance with any statutory or contractual obligations and the protective provisions afforded to them.**

28. The Secretary of State notes that specific standards and protective provisions for statutory undertakers, including utility providers, are contained in Schedules 18 (provisions related to statutory undertakers etc.) and 19 (protective provisions) to the draft Order. He notes the Inspector’s view that they strike the right balance between providing certainty that NR can deliver the Scheme and ensuring that the apparatus and interests of statutory undertakers affected by the delivery of the Scheme are properly protected (IR 3.60 and IR 8.52). The Secretary of State notes that agreement has been reached with the Environment Agency (“EA”) over its previous concerns about some of the protective

provisions (IR 3.62 and IR 8.52). This agreement has been reflected in amendments which the Inspector accepted in the draft Order. The Secretary of State is content with the amendments proposed in the draft Order.

29. The Secretary of State notes that there were two remaining objections from utility providers, National Powergrid (“NPG”) and Northern Gas Networks (“NGN”), with regard to protective provisions in Part 1 (for the protection of specified undertakers) of Schedule 19 of the Order and that neither objector appeared at the Inquiry. The principal purpose of Part 1 of Schedule 19 is to regulate the removal of existing utility apparatus from parts of the Order Land and to ensure the provision of replacement or alternative apparatus on, over or under land within the Order limits.

30. With regard to NPG, the Secretary of State notes that it objects on the grounds that the Scheme may interfere with its ability to discharge its statutory undertaking and it considered that it had assessed the protective provisions set out in Part 1 of Schedule 19 as being inadequate. The Inspector noted that NPG had not provided any evidence to substantiate that concern (IR 8.54) but that NR’s understanding was that NPG thinks it unreasonable that NR should be able to invoke the terms of an existing wayleave agreements in order to require NPG to carry out the lifting and shifting of its apparatus where this is necessary to facilitate the Scheme works. Instead, NPG contends that the costs of such works should be indemnified by NR under modified protective provisions (IR 8.55).

31. The Inspector concluded that it is reasonable to assume that the lift and shift provisions in the existing wayleave agreements are there to enable NR to require the removal or relocation of NPG apparatus on NR’s land, where this is needed for alterations or improvements to be made to the railway and that there was no good reason why NR should not rely on the provisions already in place. The Secretary of State agrees with the Inspector that no amendments to Part 1 of Schedule 19 are required (IR 8.56).

32. With regard to the objection submitted by NGN (OBJ12) the Secretary of State notes it is a holding objection and that it has requested that NR should enter into a Private Asset Protection Deed in order to safeguard their assets in place of reliance upon the protective provisions in the Order. The Secretary of State agrees that there is no evidence to support the concerns about the proposed protective provisions set out in the draft and agrees that amendments to part 1 of Schedule 19 are not necessary (IR 8.57).

33. The Secretary of State notes that the Inspector concluded that provisions made in Schedules 18 and 19 of the draft Order provide adequate protection to statutory undertakers and utility providers in respect of their apparatus and interests. He further notes the Inspector’s view that with these provisions in place, the Scheme would not have an adverse effect on the ability of such providers to carry out their undertakings effectively, safely and in compliance with their statutory and contractual obligations (IR 8.58). There is no evidence before the Secretary of State that gives him reason to disagree with that view.

## **The impact of the Scheme on other development proposals in the local Dewsbury area**

34. The Secretary of State notes that Dewsbury Riverside Limited raised an objection about the impact of the Scheme on the delivery of 120 dwellings for which outline Planning Permission has been granted (IR 5.58-5.61). For the reasons set out in paragraphs 8.37–8.38 of the Report, the Inspector is of the view that the Scheme would not have a significant adverse effect on the delivery of new housing and associated development at the Dewsbury Riverside site in accordance with the development plan allocation within the Council's Kirklees Local Plan Allocations and Designations Document (IR 8.59). The Secretary of State agrees with that view.

### **The Adequacy of the Environmental Statement having regard to the 2006 Rules including consideration of the impacts on Noise and Vibration, Air Quality and Climate Change**

35. The Secretary of State notes that the ES has been prepared in accordance with the Environmental Scoping Report submitted to the Department in June 2019 and a Scoping Opinion issued by the Secretary of State in July 2019. The Secretary of State notes that the Inspector concluded that the ES considers all of the construction and operation impacts of the Scheme and meets the requirements of the 2006 Rules and sets out an adequate and thorough assessment of the potential environmental effects of the Scheme (IR 8.61).

36. With regard to the Scheme's potential impact on Climate Change, the Inspector highlighted that Chapter 17 of NR's ES sets out the potential effects on climate change. It states that construction of the Scheme will result in emissions of 265,651 tCO<sub>2</sub>e. The majority of these emissions would be comprised in the Overhead Line Electrification which is to be installed (this being manufactured of steel) (IR 3.77). The operation of the Scheme will lead to a carbon saving of 1,473 tCO<sub>2</sub>e per annum. This shows that the Scheme construction is estimated to contribute 0.014% to the fourth carbon budget (2023 to 2027), during which the Scheme will be operational for one budgetary year.

37. NR consider that at the level predicted, the carbon emissions resulting from the Scheme are not considered to be significant in EIA terms. There would be a significant decrease in those emissions as a result of the ability to use bi-modal trains. With the expected reduction in the UK's reliance on fossil fuels for electricity generation, there is the potential for the Scheme to be carbon neutral or to achieve net zero carbon by 2050 (IR 3.7).

38. The Inspector considered that electrification of the Scheme route will make a material contribution to the delivery of NR's own Decarbonisation Strategy and the climate change agenda (IR 8.8). The Inspector concluded that at the predicted levels, the carbon emissions resulting from the construction of the Scheme are not considered to be significant in EIA terms and that there would be a significant decrease in operational carbon emissions as a result of the ability to use bi-modal trains on the route.

39. The Secretary of State notes that in their Proof of Evidence, NR set out an assessment of the Scheme against regional and local policy with regard to carbon reduction. This noted that the West Yorkshire Emissions Pathways Report identifies that rail capacity in the region must be increased to accommodate modal shift of passengers and freight, with electrification mitigating emissions growth. Northern Powerhouse Rail is identified in this as a key means of increasing rail capacity and the Scheme will deliver the



first phase of this. The Scheme is considered to be fully consistent with the WYCA's Carbon Reduction Report (IR 3.110).

40. It was noted that KC's Carbon Neutral Vision sets the aspiration of achieving carbon neutrality by 2038 and that the Scheme will make a positive contribution to meeting that target through the electrification of the Scheme route and may also contribute through the additional tree planting and in NR's commitment (secured by proposed planning Condition 19) to the achievement of a 10% Biodiversity Net Gain. (IR 3.111)

41. The Secretary of State is aware that all emissions contribute to climate change. Whilst the Scheme will result in an increase in carbon emissions during construction it will result in a decrease in carbon emissions during operation. The Secretary of State considers that the Scheme is consistent with existing and emerging policy requirements at a local and national level to achieve the UK's trajectory towards net zero and that once operational, the Scheme will support these aims by encouraging a shift to rail. The Secretary of State therefore agrees with that Inspector that the carbon emissions resulting from the Scheme are not considered to be significant in EIA terms. (IR 3.77). The Secretary of State is satisfied that that the Scheme will not lead to a breach of any international obligations that result from the Paris Agreement or Government's own policies and legislation relating to net zero.

42. With regard to the impact of the Scheme on noise and vibration, the Inspector noted that NR highlighted that evidence, which is unchallenged, demonstrates that the assessment has been carried out in accordance with the relevant legislation and guidance and has followed best practice in order to provide an appropriate assessment of the likely impacts of the Scheme (IR 3.72). The Inspector concluded that with the proposed mitigation measures in place no significant residual noise or vibration effects are predicted within the Scheme footprint. The Inspector however concluded that there would be short term significant adverse effects predicted in the wider study area due to construction traffic and temporary road diversions (IR 8.63).

43. With regard to operation of the Scheme, the Inspector concluded that with mitigation in place, significant adverse effects will be avoided at all noise sensitive receptors in terms of internal amenity, and external amenity will be maintained where noise barriers are introduced to mitigate potential adverse effects. At 14 noise sensitive receptors, where the introduction of noise barriers is not feasible, there will be residual significant impacts on the external amenity of those properties (IR 8.64).

44. The Secretary of State notes that following the implementation of the mitigation measures, significant adverse residual effects are anticipated during construction for the historic environment, landscape, townscape and visual impact, traffic and transport, population and human health and Public Open Space. The Secretary of State notes that following the implementation of the mitigation measures, significant adverse residual effects during the operation of the Scheme are anticipated on the historic environment, noise and vibration, landscape, townscape and human health and population and human health (IR 3.83 and IR 3.84).

45. The Secretary of State notes that in the SoC and the evidence submitted to the inquiry, NR submits that these residual effects are clearly outweighed by the need for substantial benefits of the Scheme. NR also noted the operation of the Scheme is predicted

to have significant beneficial residual effects in association with geology, soils and contamination and socio-economics (IR 3.85).

46. The Inspector concluded that where significant residual effects have been identified, these are largely of a form that could not reasonably be avoided given the nature and scale of the construction works and operational requirements of the Scheme. The Secretary of State agrees with the Inspector that these residual effects are outweighed to a considerable degree by the pressing need for the railway improvements comprised in the Scheme and the substantial public benefits that will be secured through its implementation (IR 8.73).

47. The Secretary of State confirms that in reaching his decision on this application, he has complied with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA relating to his consideration of the ES.

**The justification for the disapplication of legislative provisions, in particular flood risk activity and the surrender of environmental permits and what agreements have been reached with the Environment Agency (“EA”) in that regard.**

48. The Secretary of State notes that section 3 of the SoCG with the EA records the agreement reached with the EA concerning the disapplication sought in article 5(1) (disapplication of legislative provisions) in respect of the requirement for an environmental permit in relation to the carrying out of a relevant flood risk activity. The Secretary of State notes there are no remaining objections to the inclusion of this article within the Order and is therefore content (IR 3.86 and IR 8.75).

49. The Secretary of State notes that the EA objects to the inclusion of article 6 (disapplication of legislative provisions relating to the surrender of an environmental permit) in the draft Order on the grounds that it is unnecessary because NR could achieve its objectives with regard to the transfer and surrender of the environmental permits which exist in respect of the Thornhill and Forge Lane landfill operations by using the provisions with the Environmental Permitting (England and Wales) Regulations 2016. The Secretary of State notes that the Inspector does not share this view for the reasons set out in IR 8.77-8.82. The Secretary of State notes that the Inspector has concluded that article 6 as amended, is necessary to ensure the delivery of the Scheme and that there is no good reason why this should be deleted (IR 8.83). The Secretary of State agrees with that view.

**Consistency with the National Policy Planning Framework (“NPPF”), National Transport Policy, and Local Transport, environmental and local planning policies including the West Yorkshire Carbon Emissions Reduction Pathways and KC’s 2038 Carbon Neutral Vision**

50. The Secretary of State notes that the Inspector concluded that the Scheme enjoys considerable support in strategic transport policy at both the national and regional level which includes the National Infrastructure Strategy, Transport Investment Strategy and the Integrated Rail Plan for the North and Midlands (“IRP”) (IR 8.84). The Secretary of State’s consideration of the West Yorkshire Carbon Emissions Reduction Pathways and KC’s 2038 Carbon Neutral Vision is set out above at paragraphs 39 and 40.

51. In relation to development in the Green Belt the Secretary of State notes that NR accepts that some works at Heaton Lodge and Steanard Lane would be inappropriate

development in the Green Belt but contends, that, with much of the new section of railway contained within a cutting, this would have a very limited effect on the openness of the Green Belt. The Secretary of State notes the Inspector agrees with this and is of the view that there is a compelling need for the Scheme, in combination with the substantial benefits that would be secured through its implementation, serves to provide the very special circumstances necessary to justify the inappropriate development in the Green Belt. He further notes that the Scheme proposals are, consistent with the policies in paragraphs 147 and 148 of the NPPF and with the development plan in this regard (IR 3.108, IR 3.109 and IR 8.86). The Secretary of State agrees with this.

52. The Secretary of State notes that for the reasons set out in IR 8.87 the Inspector finds that although the proposals would result in harm to a number of designated heritage assets, the tests set out in paragraphs 200 to 202 of the NPPF are met, in that harm would clearly be outweighed by the public benefits for the Scheme. The Secretary of State notes that it is for the Secretary of State for DLUHC to decide the related consents for those Listed Building Applications.

### **Compulsory Purchase Powers**

53. The Secretary of State notes the principal purposes of the Order is to authorise works required for the delivery and operation of the Scheme and the land included within the Order limits are required for that purpose (IR 3.88)

54. The Secretary of State notes that in statements received by KC, WYCA and Transport for the North, the substantial transportation, social and economic benefits that would flow from the implementation of the Scheme remain largely undisputed (IR 3.37 and IR 8.88). As set out above, the Secretary of State agrees with the Inspector's view that there are no reasonable alternatives to the Scheme as proposed in order to secure the transport objectives of the Order.

55. The Secretary of State notes that the Inspector set out that considerable progress had been made by NR during the Inquiry in negotiating the acquisition of land and rights needed for the Scheme by agreement. Having regard to evidence submitted during the Inquiry regarding the difficulties of completing the early acquisition of all legal interests in land required for a linear development project, he is satisfied with the Inspector's view that NR has complied with the government's guidance that compulsory acquisition powers should be sought only as a last resort (IR 8.89 and 8.90).

56. The Secretary of State notes that a rigorous and optioneering process has been followed with the objective of minimising the amount of third-party land required as one of the key objectives of that work (IR 3.43 and IR 3.44). He further notes that detailed design, yet to be carried out, may enable the encroachment on third party land to be reduced further in some sections of the route (IR 3.51). He also notes the Inspector's view that NR has demonstrated the need for the geographical extent of the Limits of Deviation, as defined on the Order Plans, and that all of the land and rights for which powers of compulsory acquisition are sought are necessary to facilitate the implementation of the Order within a reasonable timescale and therefore the concerns raised in the remaining objections about the proposed compulsory acquisition have not been borne out (IR 8.13–8.46).

57. The Secretary of State agrees with the Inspector that justification has been provided for the inclusion of powers for compulsory acquisition in the draft Order and that these powers are needed immediately to ensure delivery of the Scheme. The Secretary of State also agrees with the Inspector that clear evidence on the availability of funding for the proposed acquisitions and implementation of the Scheme has been and that NR has demonstrated, subject to making the Order and approval of the related applications, that there would be no impediments to the implementation of the Scheme (IR 8.93).

58. The Secretary of State notes the Inspector considered that, as set out by NR, the railway purposes of the Scheme and the public benefits that would flow from its implementation, are sufficient to justify the interference with the human rights of the landowners affected by the proposed compulsory acquisition. He further notes the Inspector's view that the draft Order and the compensation provisions included within it strike an appropriate balance between the private interests of landowners and the public interest in securing the benefits of the Scheme to the national railway network (IR 8.94). The Secretary of State is accordingly satisfied, having regard to the former Ministry of Housing, Communities and Local Government (now the Department for Levelling Up, Housing and Communities) guidance (Crichel Down Rules) on the compulsory purchase process (as updated in July 2019), that all necessary funding is available, that there is no impediment to the scheme going ahead and that for the reasons summarised in this letter there is a compelling case in the public interest for the compulsory acquisition powers in the Order which justifies interfering with the human rights of those with an interest in the land that would be subject to those powers.

59. The Secretary of State has amended the wording in article 34 (temporary use of land for construction of works) as he is concerned that the provision would permit the compulsory acquisition of unspecified and undefined rights over land that is described as being for temporary possession only. It is unclear to the Secretary of State that those with an interest in the land listed for temporary possession have been adequately consulted on the extent of the compulsory acquisition being sought. Article 35 (temporary use of land for maintenance of works) provides the powers to enter land subject only to temporary possession for the purpose of maintaining the works which the Secretary of State considers is sufficient.

## **Open Space**

60. The Secretary of State notes that Chapter 20 of the ES includes a detailed calculation of the areas of the parcels of Public Open Space ("POS") that would be lost as a result of the Scheme and of the areas of new POS proposed in exchange. The Secretary of State notes the Inspector's examination of the evidence confirms that all the other parcels of POS to be acquired fall below the 209 square metre minimum size specified in s19(1)(b) of the Acquisition of Land Act 1981.

## **The deemed planning permission and the conditions to be attached to that permission**

61. The Secretary of State notes the Inspector's considerations of the draft conditions which have been agreed between NR and KC which were modified following discussion at the Inquiry (IR 8.97). The Secretary of State further notes that the Inspector considers that

the proposed conditions meet the tests set out in paragraph 56 of the NPPF and that he is satisfied that they are therefore necessary, relevant to planning and the development to be permitted, are enforceable, precise and reasonable in all other respects.

#### *Amendments to the conditions*

62. The Secretary of State notes that the Inspector highlighted that some of the conditions include a 'tail piece' element, which although often resisted in planning appeal cases, NR advised have been accepted in other TWA Order decisions. The Secretary of State has considered the conditions which include a "tail piece" element in them. Overall, the Secretary of State agrees with the revised conditions proposed by the Inspector and included in Appendix D to the Report (IR 8.98). However, the "tail piece" elements of conditions 2 (construction in accordance with agreed plans); 9 (means of enclosure) and 14 (Ravensthorpe static frequency converter site) have been removed as it appears to the Secretary of State that these provisions could enable development to take place which could be different from that which has been considered and which would be outside the statutory regime. The removal of this wording will ensure that the balance between compliance with the statutory regime and providing some flexibility is met. The revised conditions which the Secretary of State intends to attach to the Deemed Planning Direction are set out in Annex 1 to this letter.

#### **The purpose and effect of any substantive changes proposed to the draft Order and whether anyone whose interests are likely to be affected by such changes has been notified**

63. The Secretary of State notes that NR proposed two changes to the draft Order since it was submitted as described in paragraphs 3.112 and 3.113 of the Inspector's Report. He further notes that one set of amendments were at the request of KC following detailed negotiations between those parties and a further set were put forward to address the specific concerns raised by EA. The Secretary of State agrees with the Inspector's view that no other party would be affected by the proposed changes and agrees that these amendments should be incorporated into the Order (IR 8.101).

#### **Any other matters which may be raised at the inquiry which may be important and relevant to the Secretary of State's decision**

64. The Secretary of State notes the aspirations expressed by Kirklees Cycling Campaign, Huddersfield Unlimited and Huddersfield Civic Society, in relation to opening up a new access to Huddersfield Station from the north-western side which they state would bring positive benefits to station users and assist with the wider regeneration of Huddersfield Town Centre (IR 7.1-7.9). However, he notes that the Inspector agrees with NR that there is insufficient clarity about the Station Gateway proposals, as envisaged in the Huddersfield Blueprint, in order for any such proposal to be incorporated in the Order (IR 8.102). The Secretary of State agrees with that view.

65. With regard to the request for the provision of additional parking and cycle parking at Huddersfield Station, the Secretary of State notes the Inspector set out that this was not identified among the detailed Scheme requirements, as agreed between NR and the DfT and it would therefore not be reasonable to expect these enhancements to be included

within the Scheme at this stage. He also notes the existing levels of provision will not be reduced by the Scheme works and passengers will have improved access to the existing cycle parking as a result of the improvements to the lifts and stairs at the station. The Secretary of State further notes the Inspector's view that with regard to improved lighting to the underside of Huddersfield Viaduct at John William Street, that this may be desirable, and the Secretary of State agrees that this could be provided by Kirklees Council as the local highway authority (IR 8.103).

66. The Secretary of State notes that there were no other relevant matters raised at the Inquiry which the Inspector considered were not already dealt with in the Report (IR 8.105).

67. The Secretary of State notes that there is support for the Scheme from a number of parties on the grounds that the NTPR is an important economic artery and vital east-west spine, connecting the major conurbations across the north, for commuting, business and leisure.

### **Secretary of State's overall conclusion and decision**

68. The Secretary of State has had regard to all matters set out above and has therefore determined in accordance with section 13(1) of the TWA to make the Order under sections 1 and 5 of the TWA, subject to a number of minor drafting amendments which do not make any substantial change in the proposal such as would require notification to the affected persons under section 13(4) of the TWA.

### **Modifications to the Order**

69. The Secretary of State is making a number of minor textual amendments to the Order in the interests of clarity, consistency and precision.

70. Further to the textual amendments the Secretary of State also makes the following modifications. He considers that none of these changes materially alter the effect of the Order.

- The Secretary of State has made amendments to provisions referring to compensation and disputes about compensation that are to be considered under Part 1 of the 1961 Act. Disputes to be considered under Part 1 of the 1961 Act are disputes concerning compulsory purchase and the compensation provisions contained within this order are intended to have a wider application.
- Article 2 (Interpretation):
  - Definitions of "bridleway" and "cycle track" have been included as other terms found in the Highways Act 1980 have been included in this article;
  - The definition of "electronic transmission" has been amended to reflect the position taken by the Secretary of State;
- Article 27 (Application of Part 1 of the 1965 Act): The reference to "14(2)" in paragraph (8)(a) has been deleted to correct an inconsistency with Schedule 12;
- Article 41 (Defence to proceedings in respect of statutory nuisance): Drafting has been deleted where reference to repealed legislation was made;

- Article 44 (Open space and exchange land): the words “for the benefit of the exchange land” have been added to the end of paragraph (4)(b) to clarify that the rights that may be acquired over the exchange land are for the benefit of the exchange land; and
- Schedule 18 (Provisions relating to statutory undertakers etc.): Paragraph (1)(6) has had the wording “public communications provider or public utility” added for clarity.

### **Notice of determination**

71. This letter constitutes the Secretary of State’s notice of his determination to make the Order for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your clients are required to publish a notice of the Secretary of State’s determination in accordance with section 14(4) of the TWA.

### **Challenge to decision**

72. The circumstances in which the Secretary of State’s decision may be challenged are set out in the note to the Annex to this letter.

### **Distribution**

73. Copies of this letter are being sent to those who appeared at the inquiry and to all statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA but who did not appear

Yours faithfully,

Natasha Kopala

**RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA**

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, on the grounds that—

- it is not within the powers of the TWA; or
- any requirement imposed by or under the TWA or the Tribunals and Inquiries Act 1992 has not been complied with.

Any such challenge made be made, by application to the High Court, within the period of 42 days beginning with the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within three working days of the date of this decision letter.

**A person who thinks they have grounds for challenging the decision to make the Order is advised to seek legal advice before taking action.**



## Annex 1

### **NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY) IMPROVEMENTS) ORDER AND DEEMED PLANNING PERMISSION**

#### **CONDITIONS WHICH THE SECRETARY OF STATE INTENDS TO ATTACH TO THE DIRECTION AS TO DEEMED PLANNING PERMISSION**

##### Interpretation

In the following conditions—

“the Code of Construction Practice” means the code of construction practice to be submitted to and approved by the local planning authority under condition 5 (code of construction practice), a draft of which (known as “Part A”) accompanies the Environmental Statement;

“the development” means the development authorised by the Order;

“the Environmental Statement” means the statement of environmental information submitted with the application for the Order on 31 March 2021;

“Historic recording to Level 1” means the level of recording in accordance with Historic England guidelines comprising a basic photographic record;

“the local planning authority” means Kirklees Council;

“Network Rail” means Network Rail Infrastructure Limited; “the Order” means The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2021[];

“the Order limits” has the same meaning as in article 2 (interpretation) of the Order;

“the planning direction drawings” means the drawings listed in Appendix 3 to the request for deemed planning permission dated 31 March 2021;

“preliminary works” means environmental (including archaeological) investigations, site or soil surveys, ground investigations and the erection of fencing to site boundaries or the marking out of site boundaries; site clearance and de-vegetation; and the erection of contractors’ work compounds, access routes and site offices;

“Principal Station signage” means the station signage that will comprise the National Rail “double arrow” symbol and the relevant station name;

“the railway” means the railway comprised in the development; “relevant buildings” mean the following structures;

- Wheatley’s (Colliery Lane) Bridge MVL3/103;
- Colne Bridge Road Bridge MVL3/107
- 1 and 2 Heaton Lodge Cottages;
- Thornhill House, Thornhill Road, Westtown.

the “site” means land within the Order limits; and “stage” means a defined section or part of the development the extent of which is shown in a scheme submitted to and approved by the local planning authority pursuant to condition 3 (stages of development); and reference to a numbered stage is to the stage of that number in the approved scheme.

## **1. TIME LIMIT FOR COMMENCEMENT OF DEVELOPMENT**

The development hereby permitted must commence before the expiration of five years from the date that the Order comes into force. Reason: To ensure that development is commenced within a reasonable period

**Reason:** To ensure that development is commenced within a reasonable period of time.

## **2. IN ACCORDANCE WITH THE PLANNING DIRECTION DRAWINGS**

The development must be carried out in accordance with the planning direction drawings unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that the development is carried out in accordance either with the consented design or such other design details as have been subjected to reasonable and proper controls.

## **3. STAGES OF DEVELOPMENT**

No development (including preliminary works) is to commence until a written scheme setting out all the stages of the development has been submitted to and approved in writing by the local planning authority. Variations to the approved stages of development may be submitted to and approved in writing by the local planning authority. Thereafter the

development shall be undertaken in accordance with the approved stages of development. Written notification shall be given to the local planning authority of commencement within each stage, not later than 21 days following commencement within the respective stage.

**Reason:** To identify the individual stages for the purposes of these conditions.

#### **4. LANDSCAPING & ECOLOGY**

No development within the relevant stage (including preliminary works) is to commence until a Landscape and Ecological Management Plan (LEMP) for that stage has been submitted to and approved in writing by the local planning authority. a) The proposed LEMP for each Stage will include the following details:

i) A plan of existing trees and tree features (such as groups of trees or woodland) to be retained and to be removed in accordance with BS5837(2012).

ii) A plan of ecological mitigation details including areas of new plantings and details of any habitats created or enhanced.

iii) Implementation timetable and a programme for initial aftercare, longterm management and maintenance responsibilities for a period of five years post-completion.

iv) Details of organisation(s) responsible for maintenance and monitoring.

b) The LEMP must reflect the survey results and ecological mitigation and enhancement measures set out in the Environmental Statement (Volume 2i: Scheme-wide Assessment, Chapter 9: Biodiversity, Section 9.6), and must also include the following ecological measures:

i.) The aims and objectives of the management to be undertaken.

ii) A programme of monitoring with thresholds for action as required.

iii) Full details of measures to ensure protection and suitable mitigation to all relevant protected species and those species identified as being of importance to biodiversity (including licensing mitigation requirements) including bats; Luronium Natans (Floating Water Plantain); badgers; reptiles, otter and water vole, where appropriate.

c) The LEMP must include both hard and soft landscaping works, covering the locations where landscaping will be undertaken, and must also include the following details:

i) Full detailed landscape plans indicating full planting specification, including layout, species, number, density and size of trees, shrubs, plants, hedgerows and/or seed mixes and sowing rates, including extensive use of native species;

ii) Any structures, such as street furniture, any non-railway means of enclosure and lighting;

iii) Any details of regrading, cut and fill, earth screen bunds, existing and proposed levels;

iv) Any areas of grass turfing or seeding and depth of topsoil to be provided;

v) A timescale for the implementation of hard landscaping works; vi) Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fail or become diseased within the first five years from completion; and

vii) Details of protective measures for retained trees. The measures within the LEMP must be implemented in accordance with the approved details.

**Reason:** In the interests of the visual appearance and biodiversity of the area in accordance with the Kirklees Local Plan policies LP30, 31, 32 and 33. This is to secure the correct implementation of the measures identified in the Environmental Statement.

## **5. CODE OF CONSTRUCTION PRACTICE**

a) No stage of the development (including preliminary works) is to commence until a Code of Construction Practice (CoCP) Part B for that stage, including the relevant plans and programmes referred to in (b) below (which incorporates the means to mitigate the construction impacts identified by the Environmental Statement), has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt this does not include approval for Part A of the CoCP (a general overview and framework of environmental principles and management practice to be applied to the scheme along with all construction-led mitigation identified in the Environmental Statement) which has been submitted as part of the Order.

b) Part B of the CoCP (as defined in the Environmental Statement: Volume 3, Appendix 2-1 Code of Construction Practice (Part A), Section 1.2.5) must include the following plans and programmes, for each stage as defined in condition 3:-

i) An external communications programme;

ii) A pollution prevention and incident control plan;

iii) A waste management plan;

iv) A materials management plan including a separate soils mitigation plan;

v) A nuisance management plan concerning dust, wheel wash measures, air pollution and temporary lighting;

vi) A noise and vibration management plan including a construction methodology assessment;

vii) Details of the precise measures put in place to protect the Hillhouses listed coal chutes during the construction phase.

viii) Details of the measures to be put in place to mitigate the impacts on the Huddersfield Town Centre Conservation Area during the construction phase at Huddersfield Station and Huddersfield Viaduct;

ix) A demolition methodology statement for relevant buildings; and

x) An Environmental Design Plan (EDP) (Land Contamination and Hydrogeology) setting out the environmental requirements during the detailed design stage.

The development must be implemented in accordance with the approved CoCP and the relevant plans or programmes unless otherwise agreed in writing with the local planning authority shall be implemented in full throughout the period of the works.

**Reason:** To mitigate expected construction impacts arising from the development and to protect local and residential amenity and to ensure the development is carried out in accordance with Kirklees Local Plan policies LP51 and 52.

## **6. CONSTRUCTION TRAFFIC MANAGEMENT & TRAVEL PLAN**

a) No stage of the development (except preliminary works) is to commence until a Construction Traffic Management Plan ("CTMP") for that stage has been submitted to and approved in writing by the local planning authority for that stage. The CTMP must include:-

i) The package of interventions and mitigation outlined in Volume 2i, Chapter 23, Page 5, section 23.2.14 of the Environmental Statement including an implementation timetable for each stage;

ii) Specific details on arrangements for temporary car parking provision for train users as appropriate at each station including temporary parking at Huddersfield and Mirfield stations and mobility impaired set down/pick up points at Ravensthorpe and Deighton stations;

iii) A travel plan for construction staff, outlining the methods by which they shall be transported to the relevant sites and including the provision of non-motorised facilities to encourage walking and cycling; and

iv) Details on temporary diversions of both highways and rights of way required as part of the Scheme.

b) The construction of each stage of the development must be carried out in accordance with the approved CTMP unless otherwise agreed in writing with the local planning authority.

**Reason:** To protect public amenity and highway safety and in accordance with Policy LP21 of the Kirklees Local Plan

## **7. MATERIALS**

a) Before the commencement of any works in respect of structures listed below, samples and specifications of all materials to be used on all external elevations of the following structures must be submitted to and approved in writing by the local planning authority:

i) MVN2/204 Lees Hall Farm

ii) MVL3/90 Westgate Road bridge

- iii) MVL3/98 Fieldhouse Bridge
- iv) MVL3/99 Ridings
- v) MVL3/100 Peels Pit
- vi) MVL3/101 Whitacre Street
- vii) MVL3/103 New Colliery Lane (Wheatley's) Bridge
- viii) MVL3/110 Parks ix) MVL3/107 New Colne Bridge Road Bridge
- x) MVN2/202 Calder Road
- xi) MDL1/9 Fall Lane (Thornhill Road) xii) Ravensthorpe Railway Station
- xiii) Deighton Station Forecourt, Lifts & Footbridge xiv) Mirfield Station Lifts & Footbridge
- xv) Baker Viaduct (Ravensthorpe) xvi) Weaving Lane Retaining Wall xvii) Station staircase access to be closed at Mirfield station
- xviii) Principal station signage at Huddersfield, Deighton, Mirfield and Ravensthorpe stations b) The development must be constructed in accordance with the approved details and thereafter retained unless otherwise agreed in writing with the local planning authority.

**Reason:** In the interests of visual amenity and in accordance with Policy 24 of the Kirklees Local Plan.

## **8. ARCHAEOLOGY**

- a) No stage of the development (including preliminary works) in the areas listed below is to commence until a construction methodology has been submitted to and approved in writing by the local planning authority, in order to assist in identifying any likely impacts on areas of heritage interest. It shall then be agreed in writing with the local planning authority (in consultation with West Yorkshire Archaeology Advisory Service (WYAAS)) whether a written scheme of investigation is required to be submitted in relation to the following sites:
- i) The area of the former Union Dyeware Mills (HER PRN: 6671);
  - ii) The area of the former goods yard at Huddersfield Station (HER PRN: 6525);
  - iii) The area of the former Hillhouse Sidings (including the site of the White Stone Engine Shed) (HER PRN: 18375);
  - iv) The area including the pillbox at Woodend Road (HER PRN: 6588); and
  - v) The cropmark site to the south-west of Ravensthorpe Road (HER PRN:642).

b) No development (including preliminary works) is to commence within the areas of archaeological interest identified in Table 23-1 to Chapter 23 of Volume 2i of the Environmental Statement and/or in any areas that have been determined to require a written scheme of investigation in accordance with (a) above until a written scheme of investigation for such areas has been submitted to and approved in writing by the local planning authority.

c) The approved scheme must identify areas where field work and/or a watching brief are required and the measures to be taken in order to protect, record or preserve any significant archaeological remains that may be found.

d) Any archaeological field works or watching brief required by the approved scheme must be undertaken by a suitably qualified person or body approved by the local planning authority.

**Reason:** To ensure that the significance of the historic environment is properly assessed and preserved and to ensure that the development is carried out in accordance with paragraphs 189 and 199 of the National Planning Policy Framework (2021), and policy LP35 of the Kirklees Local Plan.

## **9. MEANS OF ENCLOSURE**

a) No later than 6 months after the commencement of the individual stage of the development to which it relates details of all new permanent means of enclosure for the railway in that stage must be submitted to and approved in writing by the local planning authority.

b) The approved means of enclosure must be erected in full in accordance with the approved details and retained thereafter unless otherwise agreed in writing with the local planning authority.

**Reason:** In the interest of public safety and visual amenity in accordance with policy LP24 (e) of the Kirklees Local Plan.

## **10. CONTAMINATED LAND**

In relation to contaminated land:

a) Where the Environmental Statement (Volume 2i, Chapter 12: Geology, soils and land contamination) indicates that intrusive investigation is necessary for that stage, no development in the relevant stage is to commence until a Phase II Site Investigation Report for that stage has been submitted to, and approved in writing by, the Local Planning Authority.

b) Where remediation measures are shown to be necessary in the Environmental Statement or the Phase II Reports undertaken pursuant to (a) above confirm remediation measures are necessary for the relevant stage, no development in the relevant stage is to commence until a Remediation Statement, demonstrating how the site will be made suitable for the intended use, has been submitted to and approved in writing by the local planning authority. The Remediation Statement must include a programme for all works

and for the provision of and timescale for the submission to the local planning authority of Verification Reports for written approval.

c) Remediation of the site shall be carried out and completed in accordance with the approved Remediation Statement. In the event that remediation is unable to proceed in accordance with the approved Remediation Statement, the local planning authority must be notified in writing immediately and where agreed as necessary, operations on the affected part of the site must cease. An amended or new Remediation Statement must be submitted to, and approved in writing by, the local planning authority prior to any further remediation works which must thereafter be carried out in accordance with the revised approved Statement.

**Reason:** To ensure that the presence of contamination is identified, risks assessed and proposed remediation works are agreed in order to make the site suitable for use.

## **11. UNEXPECTED CONTAMINATED LAND**

Where significant\* unexpected contamination is encountered, the local planning authority must be notified in writing immediately and where agreed as necessary operations on the affected part of the site must cease. An amended or new Remediation Statement must be submitted to, and approved in writing by, the local planning authority prior to any further remediation works which must thereafter be carried out in accordance with the revised approved Statement.

(\* significant within this context of this condition is taken to mean visual or olfactory evidence of contamination not previously encountered in the intrusive ground investigation.)

**Reason:** To ensure that the presence of unexpected contamination is identified, risks assessed and proposed remediation works are agreed in order to make the site suitable for use in accordance with Policy LP53 of Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

## **12. WESTGATE ROAD BRIDGE**

a) No work in respect of the provision of anti-trespass works on structures as identified on planning direction drawing 151667-TSA-30-MVL3-DRG-T-LP162000 Rev P01 relating to bridge MVL3/90 Westgate Road must commence until full details of the anti-trespass measures have been submitted to and approved in writing by the local planning authority.

b) The development must be constructed in accordance with the approved details.

**Reason:** To ensure the measures will not have a detrimental effect on significance of the Huddersfield Town Centre Conservation Area in accordance with Policies LP17, LP24 and LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

## **13. NOISE ATTENUATION**

Details of all permanent trackside noise attenuation measures identified in the Environmental Statement and on the relevant drawings, including a programme for implementation, must be submitted to and agreed in writing by the local planning authority



before installation of the tracks. The noise attenuation measures must be installed in accordance with the approved details and retained thereafter.

**Reason:** In the interests of residential amenity in accordance with Policy LP24 of Kirklees Local Plan.

#### **14. RAVENSTHORPE STATIC FREQUENCY CONVERTER SITE**

a) Details of the design of the Static Frequency Converter Site and wider Ravensthorpe Triangle (including Thornhill Quarry and Coal Wharf) as identified on planning direction drawings 151667-TSA-35-MDL1-DRG-T-LP162949 Rev P02, 151667-TSA-W3-000-DRG-T-LP-162951 Rev P03 and 151667-TSA-35-MDL1-DRG-T-LP-162891 Rev P02 must be submitted to and approved in writing by the local planning authority before work on the structure commences.

The details must include the following:

- i) Details of restoration/mitigation of any ecological impacts within the site;
  - ii) A plan of ecological mitigation details including areas of new plantings and details of any habitats created or enhanced;
  - iii) Implementation timetable and a programme for initial aftercare, long-term management and maintenance responsibilities for a period of five years post-completion;
  - iv) Details of any proposed hard/soft landscaping scheme including measures for visual screening; and
  - v) Full design details associated with the compensatory floodplain storage area.
- b) The development must be constructed in accordance with the approved details and all hard and soft landscaping and visual screening measures shall be retained thereafter unless otherwise agreed in writing with the local planning authority.

**Reason:** In the interests of visual amenity and biodiversity in accordance with Local Plan policies LP24, LP30, LP31, LP32 and LP33 of Kirklees Local Plan.

#### **15. HILLHOUSES YARD**

Details of the design of the structures at Hillhouses Yard, as listed below and identified on planning direction drawings 151667-TSA-31-MVL3-DRG-T-LP162863 Rev P02, 162864 Rev P02 and 162865 Rev P02, must be submitted to and approved in writing by the Local Planning Authority before work on the structures commences.

- a) The detailed design submitted must include the following:
- i) Fencing around the whole compound;
  - ii) Vehicle Restraint Measures;

- iii) Noise Attenuation Measures alongside the rear gardens of Hammond Street;
  - iv) The compound site offices and storage areas;
  - v) Retaining Wall below Hammond Street and in the Yard; vi) The temporary station platform and immediate treatment of the land following its clearance once no longer required; and
  - vii) Re-located existing Railway Telecommunications (GSM-R) Mast within the yard.
- b) The development must be constructed in accordance with the approved details and within a timeframe to be agreed with the Local Planning Authority.

**Reason:** In the interests of visual and residential amenity in accordance with LP24 and LP51 of Kirklees Local Plan.

## **16.WASTE DRAINAGE**

No Development (including preliminary works) must commence in respect of the re-located tea rooms on Huddersfield Station until a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dishwashing areas located within Huddersfield station has been submitted to and approved in writing by the local planning authority. The approved scheme must be implemented prior to first operation of the development in respect of the re-located tea rooms at Huddersfield station and shall be retained thereafter.

**Reason:** To prevent fats, oils, and grease entering the drainage network in the interests of environmental wellbeing and in accordance with Local Plan policy LP28.

## **17. NEW MAINTENANCE ACCESS**

No development (including preliminary works) in respect of the maintenance access roads to be provided and identified on planning direction drawings 151667-TSA-W3-000-DRG-T-LP-16294 Rev P02 (Wood Lane, Mirfield) and 151667-TSA-W3-000-DRG-T-LP-162939 Rev P02 (Colne Bridge Road, Bradley) must commence until the details of such maintenance access roads have been submitted to and approved in writing by the local planning authority. Thereafter such maintenance access roads shall be provided in accordance with the approved details and retained thereafter.

**Reason:** In the interests of highway safety and in accordance with Local Plan policy LP21.

## **18. POWER SUPPLY UNIT**

No development (including preliminary works) in respect of the power supply unit identified on planning direction drawings 151667-TSA-W3-000-DRG-T-LP-162939 Rev P02 and 151667-TSA-W3-000-DRG-T-LP-163405 Rev P01 to be provided at Colne Bridge Road must commence until details of the power supply unit have been submitted to and approved in writing by the Local Planning Authority. The power supply unit must be constructed in accordance with the approved details and retained thereafter.

**Reason:** In the interests of visual amenity in accordance with Local Plan Policy LP24.

## **19. BIODIVERSITY NET GAIN**

No development (excluding preliminary works) is to be commenced until a strategy to achieve an overall 10% net gain in biodiversity for the development, including monitoring, maintenance, management and reporting arrangements, has been submitted and approved in writing by the local planning authority. From the first revenue-generating train service coming into operation on the Order scheme measures to achieve an overall 10% net gain in biodiversity for the development (assessed in accordance with the 2019 Department for Environment, Food & Rural Affairs biodiversity metric) shall be implemented in accordance with the approved strategy.

**Reason:** To ensure that the development does not adversely affect the natural wildlife and ecology of the area, including protected species, and secures a net gain in biodiversity in accordance with Kirklees Local Plan policy LP30.

## **20. MDL1/6 & MDL1/8 (EXISTING BRIDGES AT RAVENSTHORPE)**

Within six months of the discontinuance of public train services over that part of the existing railway network running over the Calder and Hebble Navigation Underbridge (MDL1/6) and the River Calder Underbridge MDL1/8, details relating to the following measures must be submitted to and approved in writing by the local planning authority:

- a) Measures to secure such bridges from unlawful access;
- b) The inspection regime to be adopted for such bridges;
- c) Immediate maintenance measures arising for such bridges;
- d) Historic recording of the bridges to level 1 and the required timescale for such recording; and
- e) A programme for the implementation of these measures.

The above measures shall subsequently be implemented in accordance with the approved details and programme.

**Reason:** to ensure the proper and proportionate care of the listed structures once they cease to be operational in accordance with Policy LP35 of the Kirklees Local Plan.

## **21. APPROVAL AND IMPLEMENTATION UNDER THESE CONDITIONS**

Where under any condition the local planning authority may approve amendments to details submitted and approved, such approval must not be given except in relation to changes where it has been demonstrated to the local planning authority that the approval sought is unlikely to give rise to any materially new or materially different adverse environmental effects from those assessed in the Environmental Statement.

**Reason;** To provide for certainty in the approvals and implementation process and in the interests of proper planning.