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Dear Sirs,

TRANSPORT AND WORKS ACT 1992 – APPLICATION FOR THE PROPOSED NETWORK RAIL (BUXTON SIDINGS EXTENSION) ORDER AND DEEMED PLANNING PERMISSION

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to advise you that consideration has been given to the application made by your clients, Network Rail Infrastructure Limited (“NR”) on 2 September 2016 for:-
 - a. the Network Rail (Buxton Sidings Extension) Order (“the Order”) to be made under sections 1 and 5 of the Transport and Works Act 1992 (“TWA”), and
 - b. a direction as to deemed planning permission for the development provided for in the Order, to be issued under section 90(2A) of the Town and Country Planning Act 1990 (“the planning direction”).

The Order and planning direction would authorise the applicants to construct, maintain and operate an extension to the existing railway sidings in the Hogshaw area of Buxton, Derbyshire, together with associated works. The Order would include the authorisation of the construction of a new section of footbridge to extend the existing bridged public right of way over the new railway works. It would also confer powers for the acquisition of land and rights in land, and the use of land for the purposes of the Order.

2. NR submitted an environmental statement with their application, which took account of the scoping opinion issued on behalf of the Secretary of State on 8 December 2015.
3. In making this application, NR complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (“the 2006 Rules”). This included serving copies of the application and the accompanying documents on the persons specified in the 2006 Rules and making the documents available for public inspection. As also required by the 2006 Rules, NR displayed and published notices giving information about the application and how to make representations, and served notice on those whose rights over land would be extinguished under the Order.

Representations received by the Secretary of State

4. The Secretary of State originally received 7 objections, 4 expressions of support and 3 neutral representations. Two of the objections were subsequently withdrawn, including that from the local planning authority, High Peak Borough Council (“HPBC”). The Secretary of State decided that it was unnecessary to hold a public inquiry or hearing into this application, being satisfied that the issues raised in the remaining objections (all from local residents) could be adequately presented and examined through the TWA written representations procedure set out in rule 24 of the 2006 Rules. The Secretary of State has considered carefully all the representations that have been made about this application. The principal issues raised in the objections and NR’s responses are summarised at paragraphs 7 to 29 below, followed by the Secretary of State’s consideration of those issues and others which are considered material to the decision on this application.

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 the conditions set out in Annex 1 to this letter.**

Purpose of the application

6. In their application, NR explained that the Buxton Sidings Extension Scheme (“the scheme”) was part of the Peak Forest to London Freight Programme, whose purpose was to seek to increase freight capacity, through longer trains, between the Peak Forest and Hope Valley terminals and London. As part of the programme, the aim of the scheme was to increase the length of freight trains that use the sidings to serve the Peak District quarries at Dowlow and Hindlow. NR noted that The Derbyshire County Council, Derby City Council, and Peak District National Park Local Aggregate assessment (2014) recognised that limestone from Derbyshire was a national resource that does not exist to such an extent in most other areas of the country and that an increase in demand for this was likely due to increased levels of house building and other potential future major infrastructure projects. The scheme would facilitate an increase in the capacity of freight trains from 1,750 tonnes to 2,600 tonnes, which would contribute to the long term economic viability of those quarries and help to limit the amount of future quarry traffic using the local road network. Although no increase in production was proposed at the Hindlow quarry at the time of the application, NR stated that the scheme would provide a future opportunity to increase the amount of material transported to and from that quarry by train.

The objections and NR's responses

Consistency with local plan

7. Concern was expressed as the site of the scheme had previously been designated for housing in the High Peak Local Plan, and its use instead for the scheme would add to pressure to find land for housing elsewhere, possibly in an unsuitable location, in order to meet housing targets.
8. In response, NR pointed out that an amendment to the Local Plan to incorporate the scheme had been included in the Plan examination phase in 2015, and was found by the inspector conducting that examination to be an acceptable revision. NR also stated that the scheme would not prejudice the future delivery of housing to the east of the site.

Noise and vibration

9. One of the principal concerns of several objectors was the likelihood of increased noise and vibration during construction of the scheme, and in the operational phase from trains using the extended sidings, due to the increased length of trains (and concerns that there would be an increase in the number of trains per day), the use of additional locomotives (including periods when they are stationary with engines idling) and noise from train braking. Concern was also raised about the lack of mitigation proposed to be put in place after construction to mitigate against operational noise.
10. In response, NR stated that in relation to construction, best practice environmental management measures would be implemented through the requirement to implement a Noise and Vibration Management Plan which would form part of the Code of Construction Practice ("CoCP"), to be secured by planning condition and which would require approval by HPBC. Consents will also be required from HPBC under the provisions of section 61 of the Control of Pollution Act 1974 (in relation to the works, the method by which they are to be carried out; and the steps proposed to be taken by NR's contractors to minimise noise resulting from the construction works). With regard to operational noise, NR said that the freight operating companies had no plans to increase the number of freight train paths from the six currently existing. As regards locomotive idling, NR noted that they have no power to restrict this as this was a matter for the relevant freight operating companies but noted that this was something relevant freight operating companies sought to minimise. NR stated that noise insulation and boundary fencing would be offered to those nearby properties predicted to experience a significant noise effect but predicted that residual levels post mitigation would remain significant.

Landscape and visual intrusion (including lighting)

11. Objectors expressed concern about the visual effects of the scheme, including additional lighting for the sidings, located in a valley with vantage points from higher surrounding ground. Objectors were concerned that the scheme would be constructed on open land (albeit that the site was a former refuse tip) and that existing trees would be felled. It was considered that the extended footbridge would be an additional intrusion into the landscape. The scheme was located on the passenger rail route into Buxton and close to one of the road routes into the town, and concern was expressed about the impression visitors would gain of Buxton from sight of the sidings.

12. In response, NR considered that, with the implementation of a programme of appropriate high quality mitigation measures, to be agreed with HPBC (including tree planting, re-vegetating and restoration of land) there would be no significant permanent landscape effects from the scheme. NR also considered that the designs (including the footbridge) are appropriate for the scheme's setting and accord with the requirement for good design set out in Local Plan policy EQ6. NR did however acknowledge that there would be visual intrusion during construction (including from the site compound and related facilities) but that this would be temporary. NR also considered that, due to the topography of the site, permanent visual intrusion would be more localised than objectors had suggested.
13. Some objectors had understood that further high lighting towers would be provided, but NR said that the existing towers would be removed, and the sidings (both current and extended) would be lit by low-level lighting, illuminated only when required for operations.

Contamination and water quality

14. Some objectors referred to the Buxton mineral water industry, and were concerned that the scheme would lead to contamination of that natural water supply, particularly as the scheme was to be located on a former rubbish tip and involved excavation of a cutting through that ground. Concerns were also expressed about other potential effects of disturbing the former rubbish tip site.
15. NR stated that they had investigated the extent of the Source Protection Zone for St. Ann's Well and the source used by the mineral water industry and were satisfied that these would not be affected by the scheme. NR stated that the proposed construction and remedial works at the site had been designed carefully to ensure that appropriate measures were taken in respect of each type of contaminant material likely to be found.

Air quality and control of dust

16. Objectors were concerned about the risks of deteriorating air quality and increased dust pollution during construction and relating to changes in freight train operations facilitated by the scheme (increased engine emissions and dust from wagon loads).
17. NR noted that in relation to construction a Nuisance Management Plan (including dust) would form a component of the CoCP, secured by planning condition. They were satisfied that in relation to operation, as there would be no increase in the number of operational freight rail movements, the existence of the scheme would have no impact on local air quality.

Ecology

18. Objectors pointed out that part of the scheme site coincided with part of a designated Local Wildlife Site and part was greenfield agricultural land.
19. NR acknowledged that the scheme would directly affect a Local Wildlife Site but that appropriate mitigation would be secured through an Ecological Management Plan. This plan would be drawn up for approval by HPBC (and secured by planning condition) incorporating appropriate mitigation measures to ensure that there would be no unacceptable impacts on ecology arising from implementation of the scheme. This is

proposed to include replanting of the local wildlife site, beneficial ecological planting, bird boxes for a variety of species in retained habitats adjacent to the scheme and (in support of a commitment to “net gain”) off site offsetting work in Ferneydale Grasslands local nature reserve and additional hedgerow planting. NR noted that the agricultural land affected by the scheme was classified as Grade 4 which meant it is not classified as greenfield land, the ‘best and most versatile’ agricultural land.

Traffic

20. Some objectors challenged NRs claims that road traffic would be reduced by implementation of the scheme. They considered that even if the claims were true, the resultant reduction in driving jobs would adversely affect the local economy.
21. NR reiterated its view that in general terms transporting freight by rail had the potential to reduce emissions, support growth in the economy and improve safety by reducing the number of lorry miles on the roads. NR did however note that whilst the scheme was predicted to reduce the amount of quarry material transported on the local highways by heavy goods vehicles, any reduction was not expected to be significant.

Historic environment

22. Some objectors raised concerns about the impact of longer freight trains (facilitated by implementation of the scheme) passing through the historic Buxton town centre, partly on viaduct (itself of historic value).
23. NR considered that there was no potential for significant effects on the historic environment (including the viaduct) from the operational phase of the scheme, particularly given the existence already of an operational railway line and sidings and the distance between the scheme and designated historic features.

Local economy, including tourism

24. Some of those who objected to the scheme expressed concerns about the adverse effect they considered the presence of the scheme would have on the local economy of Buxton, particularly tourism. There was also a degree of scepticism about the scheme (once operational) acting as a catalyst for job creation.
25. NR responded by pointing out that the scheme would facilitate the growth of a key contributor to the local economy (the quarries) in a sustainable manner. NR however noted that the scheme was not forecast to have any significant overall effects on the local economy.

Alternatives

26. Some objectors considered that the sidings should be relocated away from Buxton town centre and local residences. Suggestions were made that a new rail link should be constructed to link existing lines in order to enable freight trains to avoid Buxton altogether.
27. NR had considered a number of strategic options at an earlier stage: reopening of the closed railway south of Dowlow quarry would require significant engineering works in the

National Park and high cost; an option including a new viaduct in Buxton town centre would have an unacceptable environmental impact on the town and high cost; an option to the east of Buxton would (because of the differences in levels) require very deep cuttings and/or tunnels, so would be unfeasibly expensive; and greater use of the existing passenger line serving Buxton would have engineering constraints and have the potential to disrupt current and prospective passenger services. NR therefore stated that the scheme was the best option to deliver the desired aims.

Adequacy of consultation

28. Objections were received on the grounds that NR's consultation had been inadequate and confusing with some objectors arguing that NR had been deliberately reticent about their scheme proposals in the hope of minimising opposition.
29. NR responded by stating that they had carried out a pre-application consultation with the local community including residents in January and February 2016, and a project information update in June 2016 (as summarised in the Consultation Report included in NR's application documents) before submission of the formal application in September of that year. NR also stated that they had provided evidence to the Secretary of State of compliance with the statutory rules in respect of advertising and notifying the public of their formal application.

Other representations

30. Letters of support were received from three railfreight operators and a quarry operator, each recognising the benefits the scheme would bring to their respective industries. Neutral representations were received from a local resident, in relation to access to property and the possibility of embankment subsidence; from Derbyshire County Council expressing views on surface water drainage, highway access to the construction site and footpath diversion; and from Natural England expressing no objection to the scheme but alerting NR and HPBC to environmental matters they needed to consider in taking the scheme forward, including a desire that the opportunity be taken to introduce biodiversity enhancements (see paragraph 19 above).

The Secretary of State's consideration

Consistency with local plan

31. The Secretary of State notes that the local planning authority, HPBC, expressed support for the principle of the scheme but initially lodged a holding objection referring (amongst other matters) to concern about the consistency of the scheme with the local plan and housing land. The Secretary of State notes that, following further discussions with NR, HPBC confirmed that they have agreed to liaise with NR outside the statutory process to consider the implications of the implementation of the scheme for future delivery of housing and have confirmed that they do not wish to maintain their holding objection. Given HPBC's key role in relation to the local plan, the Secretary of State gives considerable weight to their views. The Secretary of State also notes that following an amendment, the scheme is included in the local plan. The Secretary of State has no reason to consider that delivery of the scheme will materially impact delivery of planned housing and is satisfied that the scheme is consistent with the local plan.

Noise and vibration

32. The Secretary of State recognises that this topic was one of the key concerns of objectors in relation to both construction and operation. The Secretary of State is content that NR will be obliged to implement a Noise and Vibration Management Plan, approved by HPBC, in relation to construction and that this is secured through planning condition 6(b)(vi) at Annex 1 to this letter. With regard to operational noise, the Secretary of State notes and supports NR's commitment to offer noise insulation and boundary fencing to those properties predicted to experience a significant effect. The Secretary of State is content that HPBC (in withdrawing its holding objection, which encompassed concerns about noise) had been satisfied by NR's assurances as to the assessment of properties for provision of noise insulation. However, the Secretary of State considers that the assurances should be secured by imposition of a planning condition, and has therefore inserted an additional "operational noise" condition (9) to those at Annex 1. The Secretary of State nonetheless acknowledges that predicted residual operational noise levels, post mitigation, could remain significant. The Secretary of State is content with the measures NR have proposed to mitigate the impacts and is satisfied that the potential benefits of the scheme outweigh any residual impact relating to operational noise.

Landscape and visual intrusion (including lighting)

33. The Secretary of State recognises that the location of the scheme in the context of surrounding topography is such that (at least until mitigating vegetation planting has matured) it will be visible to some extent to local residents, travellers into Buxton from the north and leisure users of the higher ground in that area. This will particularly be the case during construction, though the Secretary of State is satisfied that this would be of relatively short duration. The Secretary of State notes NR's view that long term visual intrusion after construction has ended will be quite localised, and is content with NR's mitigation proposals, the details of which will be subject to HPBC approval (secured by planning condition 4 at Annex 1 to this letter). The Secretary of State is pleased to note that the existing high level lighting would be replaced by low level lighting, illuminated only when required for operations, and considers that this strikes an appropriate balance between operational safety and visual intrusion.

Contamination and water quality

34. The Secretary of State is content with NR's assurances that the natural water supply used by the local mineral water industry would not be put at risk, noting also that there were no representations to the contrary from within the industry. The Secretary of State is also satisfied that appropriate measures and controls are in place (particularly planning condition 8 in Annex 1 to this letter, incorporating approval requirements for HPBC) to ensure that the disturbance of land for the scheme which was formerly used as a rubbish tip would be appropriately carried out and the effects monitored.

Air quality and control of dust

35. The Secretary of State is satisfied that with regard to construction, the need to provide a Nuisance Management Plan as a component of the Code of Construction Practice, (secured by Planning Condition 6 at Annex 1 to this letter) and subject to HPBC approval is a satisfactory response to any potential air quality or dust issues arising from the construction of the scheme. In relation to the scheme's operation, the Secretary of State

noted that there were no plans to increase the number of trains using the sidings, and that NR considered there was no reason to believe that the implementation of the scheme would lead to an increase in road vehicle movements sufficient to trigger the requirement for an air quality assessment. The Secretary of State is therefore satisfied that there should be no significant impacts on air quality or from dust as a result of the operation of the scheme.

Ecology

36. The Secretary of State notes that an initial objection by the Environment Agency (expressing concerns about the level of ecological mitigation to be provided, in terms of both compensatory and enhancement measures) has been withdrawn after further discussion with NR. The Secretary of State also notes that Natural England have not raised any concerns about the potential impact of the scheme on ecology. The Secretary of State is content that appropriate ecological mitigation, including in relation to the Local Wildlife site, will be achieved by means of a management plan secured by planning condition 3 (at Annex 1) and subject to HPDC approval. The Secretary of State is therefore satisfied that the application should not be refused on ecological grounds.

Traffic

37. The Secretary of State notes that an increase in road traffic serving the construction phase of the scheme was acknowledged by NR to be a disbenefit, though the effect would be relatively short-term. The Secretary of State considers that NR's commitment to provide a construction Traffic Management Plan (also secured by planning condition 6 and to be approved by HPDC) was an appropriate measure to mitigate as far as reasonably possible the temporary adverse effects of construction road traffic. The Secretary of State notes also NR's intention to deliver large and bulky construction materials by rail to the existing sidings, also accepting NR's assessment that once the scheme is in operation it should result in a reduction in the amount of quarry material transported on the local highway though any changes to road traffic levels are unlikely to be significant.

Historic environment, local economy (including tourism)

38. The Secretary of State shares NR's view that the historic environment of Buxton (and thereby its attractiveness for tourists, a key component of the local economy) would not be adversely affected once the scheme is in operation, noting that the scheme should safeguard existing jobs and could facilitate growth in employment opportunities at the quarries. The Secretary of State is satisfied that a scheme of archaeological investigation to address any archaeological remains that might be discovered on the construction site will be put in place and that this is secured by planning condition 7 (at Annex 1).

Alternatives

39. The Secretary of State notes that NR had considered a number of alternative strategic options before promoting the current scheme, but rejected the alternatives variously on the grounds of cost, value for money, environmental impact and impact on existing passenger services. The Secretary of State accepts NR's analysis of these and is content that none of the alternatives considered was a viable substitute for the current scheme.

Adequacy of consultation

40. The Secretary of State is satisfied that the Environmental Statement submitted with the application was adequate, and is content that NR has provided sufficient evidence that the statutory requirements relating to the publication of the application have been complied with.

Adequacy of the Environmental Statement

41. The Secretary of State confirms compliance with the requirements of paragraphs (a) to (c) of section 14(3A) of the TWA relating to the consideration of the Environmental Statement.

Mitigation of adverse impacts

42. The Secretary of state is satisfied that for the most part, the potential adverse impacts of the scheme would be sufficiently mitigated by the CoCP. The Secretary of State is satisfied that the need and long term potential benefits of implementing the scheme would outweigh the likely harm that could remain with the mitigation measures in place
43. Under section 14(3AA) of the TWA, the Secretary of State is required to describe the main measures to avoid, reduce and if possible, remedy the major adverse environmental effects of the scheme. In this case the Secretary of State considers that the main measures to mitigate the effects of the scheme are the planning conditions, set out in Annex 1 to this letter, including the CoCP secured by condition 6.

Secretary of State's overall conclusions and decision

44. As for the public sector equality duty, the Secretary of State has had due regard to the need to achieve the statutory objectives referred to in section 149 of the Equality Act 2010, and has concluded that the potential impacts of the proposed development are not likely to result in any significant differential impacts on any of the protected characteristics referred to in section 149.
45. The Secretary of State notes that there were no objections to the compulsory acquisition powers sought through the Order from anyone on whom those powers would be imposed. The Secretary of State is satisfied that all the lands and rights are necessary for the implementation of the scheme, and is content with NR's assurances that funding is secure. The Secretary of State is accordingly satisfied that, having regard to the Department for Communities and Local Government ("DCLG") guidance dated 29 October 2015 on the compulsory purchase process, 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.
46. The Secretary of State is satisfied that the need and potential benefits of implementing the scheme as set out in paragraphs 6 and 31 to 39 above outweigh any residual adverse impacts of the scheme including from operational noise. The Secretary of State also considers that the scheme is consistent with the National Planning Policy

Framework of providing sustainable economic growth by creating potential for an increase in output from the quarries by sustainable means. For the reasons set out in this letter, the Secretary of State has concluded that it is appropriate to give NR the powers applied for to enable them to construct, maintain and operate an extension to the existing railway sidings in the Hogshaw area of Buxton, Derbyshire, together with associated works.

47. The Secretary of State is satisfied that, subject to some drafting changes (particularly including updating the compulsory acquisition provisions to reflect the coming into force of the relevant parts of the Planning and Compensation Act 2016), which together do not materially alter the effect of the Order, the form of the Order as applied for is appropriate; and is satisfied that none of the modifications made to the Order since application would make a substantial change in the proposals such as would require notification to affected persons under section 13(4) of the TWA.
48. The Secretary of State notes the planning conditions proposed by NR, accompanying their request for deemed planning permission. The Secretary of State notes that a number of conditions relating to environmental controls need to be met and approved by the local planning authority before development commences. The Secretary of State also notes that the definition of “commence” (which has been amended for clarity and to ensure consistency with the Order) which excludes “preliminary works” (as defined) would have the unacceptable effect of allowing potentially significant works such as site clearance and de-vegetation to take place before approval of plans and schemes (by the local planning authority) intended to regulate works likely to have adverse environmental impacts. The Secretary of State has accordingly amended the definition of “preliminary works” to exclude site clearance and de-vegetation, and to limit the erection of contractors’ work compounds and site offices to works which would not require excavation. With respect to the other works included in “preliminary works”, the Secretary of State is satisfied that in the particular circumstances of this scheme, and given its limited environmental impacts, it is acceptable for these minor preparatory works to be carried out prior to the approval of the various plans and schemes. The Secretary of State has also added a condition to secure operational noise mitigation, as referred to at paragraph 32 above. With these amendments, the Secretary of State is content that the planning conditions are relevant and necessary and meet the tests in DCLG’s “Planning Practice Guidance, Use of Conditions” and paragraph 204 of the National Planning Policy Framework. The Secretary of State therefore intends to attach to the planning direction these conditions subject to some further minor drafting modifications, as set out in Annex 1 to this letter.
49. The letter conveying the planning direction will issue shortly, at the same time as the Order is made, following the publication of a notice of this determination in the London Gazette.

Notice under section 14 of the TWA

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

Challenge to decision

51. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at Annex 2 to this letter.

Distribution

52. Copies of this letter are being sent to those who made representations on the application which were not subsequently withdrawn.

Yours faithfully,

Natasha Kopala

ANNEX 1

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, a draft of which accompanies the Environmental Statement;

“commence” and “commencement” in relation to the development do not apply to preliminary works;

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

“the Environmental Statement” means the statement of environmental information submitted with the application for the Order pursuant to Rule 10(2)(g) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006;

“the local planning authority” means High Peak Borough Council;

“the planning direction drawings” means the drawings listed in the Schedule to this Annex;

“preliminary works” means:-

(i) environmental (including archaeological) investigation, site or soil survey, erection of fencing to site boundaries or marking out of site boundaries; and

(ii) erection of contractors’ work compounds and site offices where such works do not require excavations;

“Network Rail” means Network Rail Infrastructure Limited;

“the Order” means the Network Rail (Buxton Sidings Extension) Order 2017; and

references to numbered works are references to works numbered in the Order.

Time limit for commencement of development

1. The development must not commence after the expiration of 5 years from the date that the Order comes into force.

Reason: to comply with the requirements of the Town and Country Planning Act 1990.

In accordance with the planning direction drawings

2. The development must be carried out in accordance with the planning direction drawings or any amendments to the planning direction drawings as may be approved by the local planning authority.

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

Ecology

3. (a) No development is to commence until an ecological management plan has been submitted to and approved by the local planning authority.

(b) The approved ecological management plan must reflect the survey results and ecological mitigation and enhancement measures included in the Environmental Statement in particular to accord with Section 6.6 of Volume I: Main Statement and Annex H of Technical Appendix B (Ecology) of Volume II of the Environmental Statement and the landscape and mitigation details set out in figure F1.11 in Volume III of the Environmental Statement, and must include an implementation timetable.

Reason: To protect and enhance the quality of the natural environment and to ensure appropriate management of ecology, in accordance with High Peak Local Plan policy EQ5.

Landscaping

4. (a) No development is to commence until a landscaping scheme has been submitted to and approved by the local planning authority.

(b) The approved landscaping scheme must include the landscape and mitigation details set out in figure F1.11 in Volume III of the Environmental Statement and the mitigation measures set out in Section 10.6.1 of Volume I: Main Statement of the Environmental Statement and must contain details of hard landscaping, soft landscaping and lighting including:-

(i) the location, number, species, size and planting density of any proposed planting;

(ii) the cultivation and importing of materials and other operations to ensure plant establishment;

(iii) hard surfacing material;

(iv) minor structures such as furniture, refuse or other storage units and signs;

(v) lighting;

(vi) any temporary fencing to protect existing trees adjacent to the development; and

(vii) implementation timetables for the works comprised in the landscaping scheme.

Reason: In the interests of amenity and to ensure the development is carried out in accordance with High Peak Local Plan policies EQ2 and EQ9.

Implementation and maintenance of landscaping

5. Any tree or shrub included in the approved scheme that, within a period of five years after planting, dies, is removed or becomes, in the opinion of the local planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Reason: To ensure the appropriate implementation of the landscaping scheme.

Code of Construction Practice

6. (a) No development is to commence until a Code of Construction Practice (“CoCP”), including the relevant plans and programmes referred to in paragraph (b) which incorporate the means to mitigate the construction impacts identified in the Environmental Statement, have been submitted to and approved by the local planning authority.

(b) Part B of the CoCP must include the following plans and programmes:-

- (i) an external communications programme;
- (ii) a pollution prevention and incident control plan;
- (iii) a waste management plan (including a materials management plan);
- (iv) a traffic management plan and a travel plan;
- (v) a nuisance management plan concerning dust, wheel washing measures, air pollution and temporary lighting; and
- (vi) a noise and vibration management plan including a construction methodology assessment.

Reason: To mitigate expected construction impacts arising from the development and to protect local and residential amenity, and to ensure that the development is carried out in accordance with High Peak Local Plan policy EQ10.

Archaeology

7. (a) No development is to commence within an area of archaeological interest identified in Section 11.6 of Volume I: Main Statement, and Figure G1.1 of Volume III, of the Environmental Statement until a written scheme of investigation for such areas has been submitted to and approved by the local planning authority.

(b) 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.

(c) Any archaeological works or watching brief 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 policy EQ7 of the High Peak Local Plan.

Contaminated land

8. (a) No development is to commence until a written scheme to deal with the contamination of any land (including groundwater and gases), identified within Section 5.6 of Volume I: Main Statement of the Environmental Statement, with particular reference to the Outline Remediation Strategy in Annex C of Technical Appendix A (Geology, Soils and Contamination) of Volume II of the Environmental Statement, which is likely to cause significant harm to persons or pollution of controlled waters or the environment, has been submitted to and approved by the local planning authority.

(b) The approved contaminated land scheme must include an investigation and assessment report, prepared by a specialist consultant approved by the local planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a contaminated land management plan setting out any long-term measures relating to any contaminants remaining on the site of the development.

(c) Any required remediation must, on completion of the development, be reported in a verification report which is to be submitted to and approved by the local planning authority.

(d) Following commencement of development, if contamination not previously identified is found to be present at the development site which cannot be adequately controlled by the established measures, then no further development (unless otherwise agreed with the local planning authority) is to be carried out on that part of the site until details of how the additional contamination is to be dealt with have been submitted to and approved in writing by the local planning authority. The development must proceed in accordance with the additional measures.

Reason: To protect human health and the quality of the local environment and to ensure that the development is carried out in accordance with High Peak Local Plan policy EQ10.

Operational noise

9. Before the development is first used for revenue-earning freight trains, a written scheme detailing the proposed implementation of operational noise mitigation measures, generally in accordance with paragraphs 8.8.2 to 8.8.4 of Volume I: Main Statement of the Environmental Statement is to be submitted to and approved by the local planning authority. The scheme is to identify individual properties for which mitigation measures are appropriate, and specify a timescale within which the mitigation measures would be

provided. The mitigation measures are to be implemented in accordance with the approved scheme.

Reason: To ameliorate the effects on local residents (where practicable) of any additional operational noise resulting from implementation of the development.

Approval and implementation under these conditions

10. Where under any of these conditions the approval or agreement of the local planning authority is required, that approval or agreement must be given in writing. The development must be carried out in accordance with any such approval or agreement, or any subsequent amendments that have been submitted to, and approved by the local planning authority.

Reason: To ensure that approvals are properly recorded.

Amendments to approved details

11. Where under any condition the local planning authority may approve amendments to details or 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 environmental effects from those assessed in the Environmental Statement.

Reason: For the avoidance of doubt and in the interests of proper planning

END.

SCHEDULE to Annex 1

PLANNING DIRECTION DRAWINGS

<i>Drawing sheet Number</i>	<i>Drawing reference number</i>	<i>Version</i>	<i>Drawing description</i>
1	ENH_112710-624-CNB4-00-DDR-R-001201	P05.1	Key Plan
2	ENH_112710-624-CNB4-00-DDR-R-001202	P05.1	Planning Application Boundary
3	ENH_112710-624-CNB4-00-DDR-R-001208	P04.1	Planning Application Boundary
4	ENH_112710-624-CNB4-00-DDR-R-001203	P05.1	Buxton Sidings Existing and Proposed Layout
5	ENH_112710-624-CNB4-00-DDR-R-001209	P04.1	Buxton Sidings Existing and Proposed Layout
5a	ENH_112710-624-CNB4-00-DDR-R-001205	P05.1	Buxton Sidings Existing and Proposed Layout
6	ENH_112710-624-CNB4-00-DDR-R-001210	P04.1	Buxton Sidings Existing and Proposed Layout
6a	ENH_112710-624-CNB4-00-DDR-R-001211	P04.1	Buxton Sidings Existing and Proposed Layout
7	ENH_112710-624-CNB4-00-DDR-R-001214	P04.1	Proposed Temporary Access to Works Compound
8	ENH_112710-624-CNB4-00-DDR-R-001217	P02.1	Buxton Sidings Proposed Headwall Elevations and Sections
9	ENH_112710-624-CNB4-00-DDR-R-001206	P05.1	Buxton Sidings Proposed Elevations
10	ENH_112710-624-CNB4-00-DDR-R-001207	P05.1	Buxton Sidings Track Works Proposed Sections
11	ENH_112710-624-CNB4-00-DDR-R-001215	P04.1	Footbridge Proposed Elevations and Section

ANNEX 2

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 ground that—

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

Any such challenge may 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 3 working days of the date of this decision letter.

CHALLENGES TO DEEMED PLANNING PERMISSION GIVEN IN CONNECTION WITH A TWA ORDER

There is no statutory right to challenge the validity of the Secretary of State's direction that planning permission be deemed to be granted for development for which provision is included in the Order. Any person who is aggrieved by the giving of the direction may, however, seek permission of the High Court to challenge the decision by judicial review.

A person who thinks they may have grounds for challenging the decision to make the Order and to give the planning direction is advised to seek legal advice before taking any action.