

WRITTEN SUBMISSIONS ON BEHALF OF NETWORK RAIL INFRASTRUCTURE LIMITED

Pursuant to Rule G16(g)

Access Dispute Adjudication (ADA30)

Introduction

- 1 These are the written submissions of Network Rail Infrastructure Limited (**NRIL**) served pursuant to Rule G16(g). The aim of these written submissions is to summarise briefly the remaining issues to be determined by the Hearing Chair in the determination of this Access Dispute Adjudication.

ADA17 Determination and the Clay Cross Down Loop

- 2 On 3 January 2014, the Hearing Chair issued his determination in respect of ADA17, which included the following with regard to the Clay Cross Down Loop (**Loop**), at paragraphs 7.4 and 7.5:

"...[NRIL] is required to reinstate and reconnect to the Network the Loop in its full length (as now made known and confirmed at the Hearing) of 649 metres and in a form at least equivalent to the physical form and layout in which it stood immediately prior to the Implementation Stageworks, and otherwise is permitted specifically pursuant to this decision to reinstate the Loop in its modern equivalent form at the time of reinstatement.....Any such reinstatement and reconnection shall be commenced and completed prior to the date of commencement of the Timetable coming into effect in December 2014...."

- 3 That reinstatement did not take place before December 2014, nor has it since, a failure which NRIL accepts should not have occurred, and for which NRIL apologises.
- 4 NRIL is wholly committed to reinstatement and reconnection of the Loop to the Network in accordance with the requirements of ADA17 as soon as can reasonably and practically be achieved, in accordance with the constraints set out in these submissions.

Determinations sought under ADA30

- 5 Each of the Claimants seeks as their main remedy in their respective Statements of Claim reinstatement and reconnection of the Loop. NRIL has agreed to do so. No determination is therefore required as to whether NRIL should reinstate or reconnect the Loop: that issue has already been concluded.
- 6 That leaves only two subsidiary matters to be considered by the Hearing Chair:
 - (a) Timing of the reinstatement and reconnection of the Loop; and
 - (b) Costs incurred by the Claimants in bringing ADA30, pursuant to Rule G53.
- 7 As to timing, NRIL indicated in its Defence that the earliest the Loop could be reinstated was December 2018. As explained further below, and subject to the constraints which are described, NRIL is now optimistic that the Loop can be reinstated and reconnected by September 2018.

- 8 If the Hearing Chair is minded to set a timescale for reinstatement and reconnection of the Loop, beyond that it should be reinstated in accordance with ADA17 as "*soon as reasonably possible*" (as requested by GB Railfreight Limited, the First Claimant, at paragraph 6.1 of the Statement of Claim), the timescale to be set should be that the Loop is reinstated and reconnected for use no later than the start of the December 2018 Working Timetable.
- 9 As to costs, NRIL is prepared to pay the reasonable and properly vouched costs of each of the Claimants incurred in bringing this ADA30, to be assessed by the Hearing Chair summarily if not agreed.

Timing of Reinstatement and Reconnection of the Loop

- 10 NRIL is committed to reinstating and reconnecting the Loop to the Network, and has undertaken investigations as to the quickest timetable which can be followed. Since filing the Defence, it is now thought that the timetable can be partially compressed, through speeding up the authority and construction phases. It is estimated that the works should be completed by the end of September 2018.
- 11 The steps in the process for reinstatement are as follows:
- (a) Authority: up to 6 months
 - (b) GRIP 3 refresh/MRSP/Pway/Civils AIP: 6 months
 - (c) GRIP 4 design: 12 months
 - (d) Construction, EIS, up to 6 months
- 12 This is the process through which NRIL must go to reinstate the Loop. Any previous preparations in 2014 are now out of date and cannot be relied on as explained further below. We submit that the present position should be considered, and what can practically and reasonably be achieved to reinstate the Loop as soon as possible.
- 13 **Authority:** This is the process to obtain funding for the reinstatement and reconnection. NRIL needs to obtain funding for this individual project before the works can be undertaken, as it now must for each individual project, following reclassification of NRIL as a public sector company for accounting purposes in September 2014. There is no general fund which can be used. The Claimants have complained that it will take 6 months to obtain this authority, but there is no short cut to obtaining this, particularly in the present time of demands on public funding. NRIL has already been working to ensure that the process of obtaining funding will be as smooth as possible. NRIL anticipates that funding and therefore authority should be obtained, at the latest, by 9 September 2016 (the date of the Programme Board). The project requires specific funding to proceed.
- 14 **Design:** This is the process of designing the Loop. Due to the passage of time any plans previously draw up in respect of the Loop cannot be relied on. The original scheme would not be compliant with today's standards (the rules and regulations which govern the railway, including safety standards). The signalling standards have changed meaning that the Loop will have to be re-installed to modern standards which could potentially effect signal locations and speeds. Network Rail will not know the full effects until detailed designs are undertaken. As noted in paragraph 7.4 of the determination of ADA17 quoted above, the Loop needs to be in its "*...modern equivalent form at the time of reinstatement*". The line speed has also increased for the benefit of rail users. This also needs to be factored into the new design.

- 15 Another factor to be considered is the length of the Loop, which (as confirmed by ADA17) is at its full length, 649 meters, having been measured prior to the hearing of ADA17. However, at this stage NRIL cannot state with a degree of confidence the exact length of the Loop which will be re-installed. This is because the design now has to take into consideration the new standards, along with the increase in the line speed. NRIL is conscious that ADA17 required reinstatement at 649m, and is committed to making extensive efforts to ensure that the loop is, if not 649m, then is as close to it as is reasonably practicable.
- 16 As to the line speeds, ADA17 was determined as part of the Network Change which dealt with the increase in speed of selected Permissible Speed Restrictions at various locations along around 110 miles of track in each direction between St Pancras and Sheffield. Those increases in line speeds have now been implemented, so the Loop needs to be designed and constructed so as to ensure safe entry into and exit from the Loop, taking into account that increase. As was explained to the Hearing Chair in ADA17, this requires the replacement of the points leading into and out of the Loop, to a different specification to allow a higher line speed through them. New point work will need to be installed in the adjacent Down Main line, and adjustments to the signalling equipment will be required. It is simply not possible just to reinstate the Loop as it originally was.
- 17 For NRIL to install the Loop in the same position, the original 15mph entry speed and 25mph exit speed could potentially be maintained. The issue produced by this is then to maintain the current increased line speed on the Midland Main Line. Here, there is the potential that the speed will have to decrease by 10 to 40mph. NRIL will not know the exact figure until the design is produced. This will obviously have an impact on current performance but also on any future journey time improvement projects such as Derby Journey Time Improvement. This all needs to be taken into account. As noted in the Defence, the only alternative to this is a substantial enhancement of the Up and Down Midland Main Line to re-align the track and maintain the current line speed. This would be even more complex.
- 18 **Construction:** In order to reinstate and reconnect the Loop, access will be required. Four separate 30-hour disruptive possessions will be required to carry out the connections to the Midland Main Line, and all the associated signalling and power works. Access will be required during midweek nights to re-build the Loop and to carry out the civil engineering. Network Rail will require the railway to be closed to undertake works for longer than that which the rules of the route possessions allow (which is usually up to 8 hours). Thus a procedure has to be followed in order to gain possession for the railway to be closed to enable the works to be carried out. That closure has to be negotiated and compensation has to be paid to the train operators.
- 19 This will require a blockade of the relevant lines at the relevant times. NRIL has made some progress in bringing this forward, because NRIL is now confident that the works can be tied in with other works (the Derby remodelling) because effectively the same blockade could be used. Timetables for projects are dependent upon blockade dates being applied for, taking the correct consultation period into consideration, and allowing for due process for that to be followed. NRIL therefore does not believe that an earlier blockade can be obtained. NRIL is working hard to ensure that the blockade required for the Derby remodelling will be maintained. NRIL is also seeking confirmation from Siemens, the contractors for the project, to ensure that Siemens has capacity to undertake the extra works required to reinstate and reconnect the Loop, in addition to the works planned as part of the Derby remodelling.
- 20 The construction period takes into consideration items (such as switches and crossings) which would need to be built and manufactured. These items have a 36-week lead time from issue of the design to manufacture.

- 21 Taking into account all of the requirements, the anticipated costs of reinstating and reconnecting the Loop is estimated at £10 million.
- 22 It should also be borne in mind in relation to timing that the Loop has not been in use for some 3 years now. NRIL completely accepts that the Loop should have been reinstated earlier, but that does not detract from the fact that the Claimants have managed without it. This was anticipated by the Determination in ADA17, in which the Hearing Chair found that there was no material deterioration in the performance of the Claimants' trains. The outcome rested rather on an analysis of the Claimants' reasonable expectations as to the future use of the Loop, so it is reasonable to conclude that the Claimants do not need to use the Loop yet.
- 23 Any determination as to timing of the reinstatement should look at the present position, and, taking into account all reasonable and practical considerations, the earliest date at which the Loop can be reinstated and reconnected. The earliest realistic time at which the Loop can be reinstated and reconnected is September 2018.

6 July 2016