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## ***NETWORK and VEHICLE CHANGE COMMITTEE***

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### **Determination NV57**

*Hearing held at Kings Cross on 16<sup>th</sup> March 2004*

*[Note: previous published determination was determination NV55]*

1. Network Rail Infrastructure Ltd (Network Rail) has implemented a Network Change, reducing the length of trains able to be refuged in Stowmarket Down & Up Goods Loop (Stowmarket loop). The change, which Network Rail perceives as necessary in relation to the safe working of the Tomo footpath crossing, was introduced on 31<sup>st</sup> October 2003, by the issue of instructions to the supervising signal box, under the dispensation given in Track Access Condition G1.9. As required by that Condition, Network Rail issued a formal Network Change notice on 8<sup>th</sup> December 2003, i.e. within 3 months from the date of implementation.
2. In this reference the Committee was asked by Network Rail to endorse the Network Change. The four Train Operators affected by the terms of the Network Change, asked the Committee to rule that the change should be reversed on the grounds that
  - 2.1. it was a disproportionate response to a perceived safety risk; and that, as a consequence
  - 2.2. it had an undue impact on “*the operation of the Network, or of trains operated by that operator on the Network*” (*Track Access Condition Part G Definitions (i)*).
3. The four Train Operators are Anglia Railways Train Services Ltd (Anglia), English Welsh & Scottish Railway Ltd (EWS), Freightliner Ltd (FL), and GB Railfreight Ltd (GBRf).
4. The Committee found as matters of fact that
  - 4.1. Stowmarket loop has the length to accommodate trains of up to 84 SLUs. However it is intersected part way along its length by Tomo footpath crossing.
  - 4.2. Tomo footpath crossing is a public right of way. It is currently the subject of active discussions, between Network Rail and the relevant local authority, with a view to the crossing, at its present location, being closed, and an alternative provided.
  - 4.3. The length of freight trains currently using the route is such that, if one is refuged in the Stowmarket loop, it will generally obstruct the crossing for as long as it is awaiting a proceed signal.
  - 4.4. Were such an arrangement to be contemplated in respect of a new crossing it would be at variance with the guidance in para 24 of ‘Railway Safety Principles and Guidance Part 2 Section E “Guidance on Level Crossings”’(1996) (RSPG-E) which states that “*The positioning of a crossing and its associated signalling arrangements should ensure that, during normal working, no part of a stationary train should stand obstructing a crossing*”.

- 4.5. *“Railway safety principles and guidance does not apply retrospectively to existing level crossings”* (RSPG-E, Para 9). The arrangements at Stowmarket loop have existed in their present form for a number of years, at least, since the East Anglia Electrification in the 1980s. However,
  - 4.5.1. the speed of Up trains has been reduced from the nominal line speed of 100mph by the imposition of a TSR of 60mph in order to ensure that users of the crossing have adequate visual warning of oncoming trains; and
  - 4.5.2. a report received (in 2003) through the Confidential Incident Reporting and Analysis System (CIRAS) has drawn attention to instances where, when a train has been standing in the loop, pedestrians have resorted to climbing under or over trains.
- 4.6. In response to the CIRAS report, Network Rail has carried out further risk assessment, and a review of options for action, and has concluded that, in the short term, and whilst the crossing is not subject to any change in its method of working, the length of train that can be accommodated in the loop should be restricted to such lengths as will leave the crossing clear at all times. The effect of this instruction is that Down trains, standing at the Down Signal CO389, will be restricted to 30 SLUs, and Up trains, standing at the Up Signal CO386, to 50 SLUs.
- 4.7. The view of the Train Operators is that, with these restrictions in place, the options for the scheduling and regulating of freight trains are unreasonably restricted. However, in relation to the Timetable that had been in force since the inception of the revised operating instructions,
  - 4.7.1. trains that had previously been scheduled to use the loop had been re-timed, and
  - 4.7.2. no evidence was presented as to delays and penalties suffered by the Train Operators attributable specifically to the reduced capability of Stowmarket loop.
- 4.8. Stowmarket loop is the only location between Ipswich and Norwich which can be used to enable a slower train of more than 40SLUs to be overtaken by a faster, and thus has a crucial part in assuring that the Network has the ability to deal with perturbations in normal working. It performs a similar role for traffic heading to or from Bury St Edmunds, although, on that route, west of Haughley Junction, the line speeds for freight and passenger trains are not very dissimilar.
- 4.9. All parties agreed that, during the period of weeks when Ipswich Tunnel would be closed for engineering works, the operation of the considerable number of trains that would be diverted to run via Haughley Junction, would not be practicable without the availability of Stowmarket loop, for the use of trains of up to 84 SLUs.
5. The Committee also heard representations from Anglia, and from GBRf, (to which both FL and EWS gave their support) that, were a conditional STOP board, for Down trains, to be installed on the loop, in rear of Tomo Footpath crossing, but with sighting of Signal CO389, this would accommodate Down trains of up to 50SLUs (i.e. occupying the same portion of the loop as a 50SLU Up train standing at Signal CO386). The parties were aware of other locations where such arrangements had been introduced.

6. The Committee stated that its jurisdiction in this case related to the matter of whether or not the Network Change proposal had the practical effect that Network Rail's ability to honour its contractual obligations, in respect of track access, was going to be unacceptably impaired, and if so what general direction it should give. It is not within the jurisdiction of the Committee to issue any direction as to the manner in which Network Rail discharges its safety responsibilities to give effect to that general direction.
7. That said, the Committee was told that, before Network Rail had concluded that, in the context of the current normal Timetable, the issue of the Network Change in question was the appropriate solution to the immediate problems of assuring ALARP risk, it had acknowledged that there were other possible measures that might be taken, pending closure of the crossing. In particular, if, for any reason there was no alternative but to refuge trains of longer than 50 SLUs in Stowmarket loop, then this could be achieved by providing crossing keeper supervision at the crossing with a view to minimising any risk to pedestrians.
8. Taking all factors into account, the Committee concluded that
  - 8.1. Network Rail was right to be pursuing, with the utmost vigour, the closure of Tomo footpath crossing at the earliest opportunity.
  - 8.2. In the context of the current Timetable, and with the adjustments to the schedules of specific trains that had been made, the restrictions on the lengths of trains using Stowmarket loop did not appear to be causing Network Rail to fail to meet its contractual obligations to the current Train Operators.
  - 8.3. Some of the current re-schedulings have only been possible because the current Timetable of passenger services has breaks in the hourly pattern, which permit exceptional extra paths. This will not necessarily be the case with future Timetables, and in such circumstances, a restricted facility at Stowmarket loop could "*materially affect the operation of the Network, or of trains operated by that operator on the Network*".
  - 8.4. For as long as Stowmarket loop is restricted as to the length of train it can accommodate, and there is no other refuging facility to replace it, this is likely to place a restraint on Network Rail's ability to introduce any Timetable including revised or enhanced services, as compared with the current Timetable.
  - 8.5. The proposal for an intermediate conditional STOP board applying to Down trains appears to merit further consideration, inasmuch as it would increase the usable length of the loop for Down trains, and could be sufficient to answer the concerns of Anglia in respect of Empty Coaching Stock movements. However, such a measure is not, for the generality of train regulation needs within the area, an acceptable substitute for re-instating the full (84SLU) capability of the Stowmarket loop.
  - 8.6. The period of the Ipswich Tunnel closure will require special measures to be introduced so that the Stowmarket loop can be available for the refuging of trains of a full 84SLUs.

9. The Committee therefore determined that it would issue the following general directions in accordance with its powers in Access Condition G6.5.3
  - 9.1. In relation to the Winter 2003 and May 2004 Timetables the Network Change promulgated in the notice of 8<sup>th</sup> December 2003 was acceptable, insofar as it does not demonstrably “*materially affect the operation...of [actual] trains operated by that operator on the Network*” and should continue in force for the duration of those timetables.
  - 9.2. This Network Change should only be seen as an interim arrangement. The same is true of any proposal to augment the capacity of the loop in the Down direction by the introduction of a conditional STOP board. In neither case is this Network Change a substitute for Network Rail pursuing every reasonable option for achieving the closure of Tomo footpath crossing, and then restoration of the full length capability of Stowmarket loop.
  - 9.3. For the duration of the works blocking Ipswich tunnel, and the consequential service diversions, Network Rail is to make such arrangements for the safe management of Tomo footpath crossing as shall ensure that the Stowmarket loop can, at any time required, accommodate trains of up to 84SLUs length.
  - 9.4. For the avoidance of doubt, it should be understood that, on the basis of all the representations made to this Committee, long-term smooth operation of this part of the Network, to maximum efficiency, requires the full length capability of the Stowmarket loop. It is not, therefore, an option for the Stowmarket loop to remain permanently curtailed, and all reasonable endeavours should be exercised to avoid that possibility. Furthermore, it is the view of the Committee that, until this restriction on the use of Stowmarket loop is removed, Network Rail should substantially retain the pattern of services that apply in this area in the Winter 2003 and Summer 2004 Timetables. In other words, it would not be acceptable to include in future timetables affecting the area, additional or altered services which compromised the re-schedulings made necessary to facilitate this Network Change.

Sir Anthony Holland

Chairman