

TTP2388

GB Railfreight and Network Rail

First Directions Letter to both Parties

Terms used

“ADC” means The Access Disputes Committee

“GBRf” means GB Railfreight

“NR” means Network Rail

To enable the Panel to fully understand and deal fairly with the issues raised or likely to be raised by the Parties, can each party please address the following matters as addressed to each:

For NR

1. When did GBRf request NR not to copy it into so many emails, and asking NR to use its judgement when consulting changes to engineering access under D3.4 and D3.5?

Meeting with Ian Kappur (GBRf) /Tom Mainprize (GBRf), Maria Lee (Network Rail) and George Long (Network Rail) 6th Dec 2023. A meeting came about after spoke to our Wessex Route Director Matt Pocock. PLEASE SEE APPENDIX B for details.

2. If in writing, produce a copy of the document. If not in writing, provide full details so the GBRf can address the matter.

PLEASE SEE APPENDIX B.

3. It is noted that:

- (a) NR say in their email from Bryan Davey (29/2/24 @18:10) “the engineering access team have confirmed that “no traffic has been bid and of offered” on 12 Feb 2024”.

Wessex route checked the Train Planning system when the access was requested on 8th February 2024 and there were no trains/services shown in the TPS or in Trust.

Network Rail Wessex route created the possession and issued a notification on 12th February 2024 to SCO (Supply Chain Operations, Charter Team in Milton Keynes and Southwest Railway (who had run the coronation troop train in May 2023)).

- (b)GBRf say in their case summary: “8th February: GB Railfreight bid 14 test paths to Network Rail Capacity Planning using the Short Term Planning process.”

- (c) Can NR confirm that there was a bid from GBRf on 8/2/24

Network Rail Train planning team confirm they received a bid from GBRf on 08.02.24 but had advised that it could not be processed due to GBRf submitting a temporary gauging certificate but there was a requirement for a full SoC. (Emails attached). The services bid by GBRf were not offered back to GBRf. Appendix E

(d) If so does NR accept that the statement at (a) above (“the engineering access team have confirmed that “no traffic has been bid and of offered”

on 12 Feb 2024”) is incorrect in relation to there being no bid, if

GBRf did, as it claims, submit a bid for the paths in question on 08 Feb 24 –

NWR accepts a bid had been received into the Network Rail Train planning department however the bid was not processed as the bid was not acceptable/non compliant as an SoC had not been submitted with the bid and the bid was identified as week 52 but the dates were for week 51. NWR train planning team advised GBRf of this on 8th February APPENDIX E

(e) If not, what is the explanation?

4. How often GBRf has run trains (whether “test” trains or otherwise) on the sheepcote Up/Down lines in the last two years?

The only traffic identified in the WTT in the past two years are Ultrasonic Test Train, SCO, Charter and Southwestern Railway Troop train May 2023.

5. Please supply a copy of any record of the application of the Decision Criteria referred to in Bryan Davey’s email of 29/2/24 @18:10, (last line of point 1)

- 1. Decision Criteria completed at time of decision APPENDIX Q*
- 2. Further Decision Criteria completed once aware of GBRf aspirations which was then amended 05.03.2024 as advised by GBRf/GWR that only two days were required for 4 x trains. APPENDIX Q*

Resolution of the Dispute:

6. Mitigation of loss

1 and co-operation

2 between the parties to resolve the

dispute: To enable the panel to determine if the parties have co-operated and attempted to mitigate their losses (should I decide there were losses

incurred), please state:

(1) Please explain in full why it is alleged that it is not reasonably practicable

for the proposed work to be carried out later than the time

currently scheduled

Please see Sheepcote Justification and Benefits Appendix R

(2) Are you (NR) prepared to work with GBRf to ensure that “test train(s)” can be run into Waterloo via Sheepcote Curves before any HS2 blockades? If so, have you contacted GBRf to discuss the issue?

NR has proposed various different options to GBRf to support the running of the ‘diversionary route test trains’ all of which have been considered and declined by GBRf on their customers behalf.

APPENDICES N, O, P

(3) If you have so contacted GBRf when, and with what outcome?

NR has proposed various different options to GBRf to support the running of the ‘diversionary route test trains’ all of which have been considered and declined by GBRf on their customers behalf.

APPENDICES N, O, P

(4) Set out those matters which you (NR) consider renders your decision justified and proportionate in relation to the matter, and produce any documents you rely on.

(5) Will NR please confirm what consideration, if any, has been given to cancelling, postponing or easing this possession and what penalties would be incurred if it were to be cancelled, postponed or eased

In week 51 the second week of the blockade NR will be sheet piling.

Network Rail is looking at whether the possession can be extended into the weekend of week 52, however this will be reliant on resource both manpower and equipment and whether the sheepcote lines will be used for Engineering haulage trains.

7. Produce any documents you wish to rely upon at the hearing by 14:00 on Wednesday 6 March so that the panel and GBRf have sufficient time to deal with the same.

8. Will NR outline what outcome it seeks from the hearing?

The decision for the access in week 51 to remain. Part D specifically D3.4/3.5 allow Network Rail to take a Restriction of Use post EAS publication. There is no condition that stipulates Network Rail cannot take a restriction of use due to there being either a train slot within the working timetable or aspirant bids regardless of their status.