

TTP2429 – Transport for Wales Rail Ltd Sole Reference Document

1. DETAILS OF PARTIES

1.1 The names and addresses of the parties to the reference are as follows:-

(a) Transport for Wales Rail Ltd, Company Number 12619906 (“TfW Rail”), whose Registered Office is at 3 Llys Cadwyn, Pontypridd, CF37 4TH (“the Claimant”); and

(b) Network Rail Infrastructure Limited (“NR”) whose Registered Office is at Waterloo General Office, London, SE1 8SW (“the Defendant”).

1.2 Third Parties to this dispute may include DB Cargo, Great Western Railway, GB Railfreight and Freightliner.

2. THE CLAIMANT’S RIGHT TO BRING THIS REFERENCE

2.1 This matter is referred to a Timetabling Panel (“The Panel”) for determination in accordance with Condition D3.4.3 (Network Rail Variations with at least 12 Weeks Notice) and D5 of the Network Code (Appeal in accordance with the ADRR). TfW Rail is dissatisfied with the decision made by NR in respect of the Late Notice Decision to extend the duration of an existing possession in Week 27 between Llanelli West and Whitland because it has other agreed access already available and has not justified the reasons for this additional access.

3. CONTENTS OF REFERENCE

The Sole Reference includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A detailed explanation of the issues in dispute in Section 5;
- (c) In Section 6, the decisions sought from the Chair in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (d) Appendices and other supporting material.

4. SUBJECT MATTER OF DISPUTE

4.1 This is a dispute regarding Network Rail’s decision to extend the duration of an existing possession for works in association with the Port Talbot West signalling Phase 2 Project (“PT2”).

4.2 PT2 is a major phase of a resignalling project originally planned to be undertaken and completed in CP6. The Project has faced challenges with making full use of the originally available access, for various reasons.

- 4.3 Network Rail has sought additional access for PT2 over the past few months. A general timeline of this is given in **Appendix A**. On 24th April 2024 Network Rail published a Decision regarding possession P2024/3955980, which is an extension in duration to an existing possession between Llanelli West and Whitland in Week 27 of the 2024 Engineering Access Statement (**Appendix B**). The decision document extends the closure of this section of route to include both Saturday and Sunday instead of the original Sunday only closure. TfW Rail appealed the Decision by registering a Timetabling Dispute on 24th April 2024.
- 4.4 This dispute arises over a) the timescales of the Change Procedure that must be followed in Part 3.4 of the National Timetable Planning Rules 2024 (the “TPRs”) and were not followed by Network Rail; and b) Network Rail’s given reasons for extending the possession in accordance with the Decision Criteria of Part D of the Network Code.
- 4.5 The timescales of the late notice possession request were:
- a) Date of request: 2nd April 2024
 - b) Deadline for responses: 16th April 2024
 - c) TfW Rail’s response declining the request: 9th April 2024
 - d) Network Rail’s Decision published: 24th April 2024 (6 working days after the Deadline for responses)

5. EXPLANATION OF EACH ISSUE IN DISPUTE AND THE CLAIMANT’S ARGUMENTS TO SUPPORT ITS CASE

- 5.1 TfW Rail argues that Network Rail failed to issue the Decision notice by the correct date. Under Part 3.5 of the TPRs (Decision by Network Rail), paragraph 3.5.3 states that “Network Rail will notify its decision to each affected Timetable Participant within 5 working days of the last date for receipt of responses under paragraph 2.4.6 [this is a typo in the document and should be 3.4.6] above”. Network Rail did not do this. TfW Rail was notified of the decision after 6 working days.
- 5.2 TfW Rail also argues that Network Rail did not reasonably and correctly apply the Decision Criteria in reaching its decision to publish the new possession times. Extending the duration of this possession is disproportionate and unjustified when set against the considerable volume of access already secured by Network Rail for PT2, particularly the 29 weeks of extended midweek night access during Periods HJ of the 2024 Timetable and Periods ABC of the 2025 Timetable and which totals approximately 900 hours of access, published on 2nd April 2024 & 3rd April 2024, respectively.
- 5.3 The previously agreed extended midweek night access for PT2 was on TfW Rail’s understanding that, once the extended midweek night access was issued as Decisions, Network Rail would review all existing weekend possessions already planned for PT2 works, with a view to removing access. Despite this, Network Rail has extended the duration of this possession in Week 27.
- 5.4 The PT2 Project has not provided information to show how many hours they do in fact need to complete their work, which would allow TfW Rail to effectively compare the number of hours in the currently agreed possession plan with number of hours required.
- 5.5 TfW Rail do not believe that the Decision Criteria Network Rail applied for this possession (**Appendix C**) is reflective of the access requested (In fact the application of the Decision Criteria for this possession is identical to that for all of the other possessions requested for this project – covering a

range of possessions between Week 17 of 2024 and Week 2 of 2025 – some of which have completely different impacts and implications for each operator, footprints or duration.)

5.6 Specific decision criteria we do not believe have been applied properly are:

- a) 4.6.2 (a) (maintaining, developing and improving the capability of the Network). TfW Rail have not been provided with any information to suggest that Network Rail will be maintaining, developing, and improving the capability of the network during the time extension requested in P2024/3955980. Network Rail have not provided any evidence that they need the amount of access they currently have agreed in the plan (which is in excess of 1600 hours), let alone another circa 27 hours of access.
- b) 4.6.2 (f) (the commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable Participant of which Network Rail is aware). TfW Rail do not believe that it is in the commercial interests of Network Rail or TfW Rail, or any other Timetable Participant, to plan access that is not going to be fully utilised.

5.7 TfW Rail believes that Network Rail should have provided “a concise explanation of its reasons” (in accordance with paragraph 3.4.5.2 of the TPRs), when requesting the access for week 27 in order to clarify why it required more access; what work it proposes to do in this access; and why it cannot be undertaken in any of the other access the Project already has available to it.

6. DECISION SOUGHT FROM THE CHAIR

6.1 As a matter of principle, the Panel is asked to determine that Network Rail did not follow paragraph 3.5.3 of the TPRs in its decision to publish the new possession times because it notified TfW Rail of the Decision after six working days. (It became apparent in a meeting with Network Rail that TfW Rail had been omitted from the distribution list for the original decision document.) Therefore the Decision should be withdrawn.

6.2 Notwithstanding the above, the Panel is asked to determine that, in any case, the extension to the existing possession is not permissible because it has failed to adequately explain why it reasonably requires this additional access with reference to the Decision Criteria and in accordance with paragraph 3.4.5.2 of the TPRs. Therefore the Decision should be withdrawn.

7. APPENDICES

The Claimant confirms that it has complied with Access Dispute Resolution Rule H21.

All appendices are bound into the submission, and consecutively page numbered. To assist the Panel, quotations or references that are cited in the formal submission are highlighted (or side-lined) so that the contact of the quotation or reference is apparent.

Any information only made available after the main submission has been submitted to the Panel will be consecutively numbered, so as to follow on at the conclusion of the previous submission.

8. SIGNATURE

For and on behalf of Transport for Wales Rail Limited

_Chris Dellard_____

Signed

_Chris Dellard_____

Print Name

_Head of Access Planning_____

Position

_6th June 2024_____

Date

List of Appendices

Appendix A	General timeline of events	Page 6
Appendix B	Decision notice	Page 8
Appendix C	Network Rail's application of the Decision Criteria	Page 12

Appendix A – General timeline of events

Given the project delays and the many possessions requested at late notice for Port Talbot West Phase 1, Network Rail decided to plan all the of the Port Talbot West Phase 2 access with “sufficient notice to enable affected stakeholders to plan for the disruption”.

TfW Rail supplied comments to Network Rail about the access proposed in the PowerPoint for 2024 on 25/10/2023. The 2025 access could not be commented on at this time until V1 of the EAS was issued and reviewed fully. In our response we stated we did not accept any of the weekday Access proposed in weeks 26, 32 and 36. We requested that the project presented us with other options of how this work could be undertaken.

15/11/2023 – a revised PowerPoint presentation was issued, to take into consideration some of the comments fed back to Network Rail.

Network Rail initially issued 25 Request documents for access in 2024 and 2025. Of this list TfW Rail rejected 4 weekday possessions, one Christmas possession (because we cannot outstable units over Christmas) and one because of a mistake in the original proposal. We subsequently accepted the revised Christmas proposal and the corrected mistake proposal.

Port Talbot Meeting 8th Jan – Idea of extended midweek nights and extended Saturday nights was discussed, with a proposal/suggestion that if the extended midweek nights and extended Saturday nights were accepted, Network Rail could look at reducing the weekend access currently proposed. The existing access was described by the Project as “massively inefficient and expensive”.

22nd Jan – TfW Rail sent Network Rail initial thoughts on what extended midweek night times / extended Saturday night times we could offer.

26th Jan – Network Rail replied to these initial comments stating they would need to keep some weekends in the plan because they need some Carmarthen (inclusive) access, but they said that the times we proposed for extended nights was something “Siemens could work with to minimise the impact of disruption”.

Meeting 6th February – Decision was made to remove the extended midweek nights proposal but to go ahead with the extended possessions on Saturday nights. Network Rail were to withdraw the access in Week 26 (10-hour extended weeknights) and in Weeks 33, 36 and 43 (10-hour weekday daytimes). In place of this access, other possession extensions and additional possessions were looked at and agreed in principle with operators (including the extension of the Week 27 Sunday possession to commence at 0145 Saturday).

During a phone call around 6th March, TfW Rail was made aware that Network Rail were considering proposing the extended midweek night access after all, because they believed that this was the only option to reduce costs to ensure that the Project remained financially viable.

13th March – request sent out for extended midweek night access (Requests 113-W24-WA24 & 011-W50-WA25).

26th March – TfW Rail accept the extended midweek night access.

2nd and 3rd April – Decision documents issued for extended midweek night access

2nd April – Request for week 27 access extension received.

17th April – TfW Rail was made aware that DB Cargo had disputed the extended midweek night possessions.

Because the extended midweek night possessions continue for such a long time, they are included in the Permanent Timetable. The amendments to the Permanent Timetable for Periods HJ of 2024 are completed and will be sent to Network Rail on 14th June as part of TfW Rail's TOVR5 bid. The amendments to the Permanent Timetable for Periods ABC of 2025 are being dealt with as part of the Offer Response, the work of which is completed and will be returned to Network Rail on 28th June. Each week, 74 trains are affected.

Appendix B – Decision notice

From: Engineering Access Planning - Wales Route [address redacted]

Sent: Wednesday, April 24, 2024 1:31 PM

To: Chris Dellard [address redacted]; John Chipperfield [address redacted]; Michael Rose [address redacted] Nathan Doe [address redacted]; Philip Edwards [address redacted]; Ryan Gerrish [address redacted]; Susan Olohan [address redacted]; Vikki Spooner-Lea [address redacted]

Subject: FW: Decision Document - 115-W27-WA24 - Llanelli to Carmarthen - Week 27 - GW900

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe. Please report suspicious emails to the IT Service Desk.

OFFICIAL

Hello,

Very sorry for this, somehow I've dropped you off the list for this Decision Document

Kind regards,

Oliver Roche-Clarke

Access planning specialist

Engineering access planning

Wales Route

07734649857

[Track Diagrams - Wales \(sharepoint.com\)](#)

Annual Leave notice – May 29-31, Aug 9-20 & Nov 25-29



From: Engineering Access Planning - Wales Route

Sent: Tuesday, April 23, 2024 2:51 PM

To: amanda.stevens [address redacted]; Graham White [address redacted] EXTL: Alex Belk-Sumpton (Freightliner/GWRR)[address redacted]; EXTL: Smith David (Genesee & Wyoming (Freightliner)); EXTL: Engineering Access (Generic email) [address redacted]; EXTL: Pell Darren [address redacted]; EXTL: TrainOps GBRF [address redacted]; EXTL: Edmeads Kevin [address redacted]; Grand Union [address redacted]; Ian Yeoitt [address redacted]; EXTL: Planning Lsltoc [address redacted]; Jamie Shorthouse [address redacted]

Cc: Wales Route Short Term Planning West [address redacted]; Wales Route Mid Term Planning [address redacted]; Scott Beech <[address redacted]>

Subject: Decision Document - 115-W27-WA24 - Llanelli to Carmarthen - Week 27 - GW900

Dear All,

Network Rail are taking the following additional access, 52 hours vice 27 hours, in week 27.

GW900 GW9 A PILNING TO FISHGUARD HARBOUR

GW930 GW93 B CARMARTHEN JN TO CARMARTHEN STATION

GW940 GW94 B CARMARTHEN STATION TO CARMARTHEN BRIDGE JN

SATURDAY 28 to MONDAY 30 SEPTEMBER

Ref. No. [P2024/3955980](#) Possession Manager Route Business Wales

Item	Llanelli West LC	Down and Up Main	2330 0145	to	0330
	and	Possession	SAT		MON
	Carmarthen Bridge Jn				
	Carmarthen	Down Platform	2330 0145	to	0330
		Possession	SAT		MON
	Carmarthen Jn	Single	2330 0145	to	0330
	and	Possession	SAT		MON
	Carmarthen				
	Carmarthen	Single	2330 0145	to	0330
	and	Possession	SAT		MON
	Carmarthen Bridge Jn				
	Carmarthen	Up Platform	2330 0145	to	0330
		Possession	SAT		MON
	Carmarthen Bridge Jn	Down and Up	2330 0145	to	0330
	and	Possession	SAT		MON
	Whitland				
	Carmarthen	Up Siding	2330 0145	to	0330
		Sidings Possession	SAT		MON

Resignalling Work
225m 35ch and 258m 35ch
[W2024/10650551\[AP\]](#)

OTM Ballast Regulator
229m 45ch and 244m 50ch
[W2024/10550853\[AS\]](#)

C74 S&C - Partial Renewal
244m 60ch and 245m 50ch
[W2024/10818628\[AS\]](#)

PROTECTION LIMITS

Down Main: Beyond PT3219# to Approach W2#

Up Main: Beyond W30# to Approach PT3218#

Carmarthen station: Bufferstops

TRAFFIC REMARKS

AMENDED TRAIN WORKING WITH REPLACEMENT ROAD TRANSPORT BETWEEN LLANELLI / CARMARTHEN AND WHITLAND.

ALL TRAINS TO LLANELLI TO USE DOWN PLATFORM, AND RETURN EAST VIA 9723 POINTS.

ALL LINES AVAILABLE FOR TRAINS AT WHITLAND.

NO TRAINS TO BE STABLED AT CARMARTHEN STATION.

“This email is in accordance with Access Condition D3.4 and relates to Section 3.1 of the Timetable Planning Rules being the Procedure for Altering the Engineering Access Statement or Timetable Planning other than through the Twice-Yearly Process Having Effect from a Passenger Change Date. Standard Network Code and Standard Track Access Conditions will apply with regard to this/these possession/s”.

Kind regards,

Oliver Roche-Clarke

Access planning specialist

Engineering access planning

Wales Route

07734649857

[address redacted]

[Track Diagrams - Wales \(sharepoint.com\)](#)

Annual Leave notice – May 29-31, Aug 9-20 & Nov 25-29



The content of this email (and any attachment) is confidential. It may also be legally privileged or otherwise protected from disclosure.

This email should not be used by anyone who is not an original intended recipient, nor may it be copied or disclosed to anyone who is not an original intended recipient.

If you have received this email by mistake, please notify us by emailing the sender, and then delete the email and any copies from your system.

Liability cannot be accepted for statements made which are clearly the sender's own and not made on behalf of Network Rail.

Network Rail Infrastructure Limited registered in England and Wales No. 2904587, registered office Network Rail, Waterloo General Office, London, SE1 8SW.



Decision Criteria Table

Record of the application of Network Code Part D4.6 Decision Criteria in relation to:	
i)	Additional late disruptive access requests between week 17 of the 2024 EAS and week 02 of the 2025 EAS.
During the development of the second phase of the Port Talbot West resignalling project and track recovery work following the first phase.	

In making this decision, Network Rail has carefully considered its obligations under Part D of the Network Code, including the application of the Decision Criteria at Condition D4.6.2 of Part D of the Network Code. The following table sets out Network Rail’s application of the Decision Criteria.

In applying the Decision Criteria Network Rail has weighted the considerations using the below weighting:

N/A - Not applicable in this case

Low: is relevant and of very low importance in this case

Medium: is relevant and of medium importance in this case

High: is of high relevance and high importance in this case

Decision Criteria

Objective (4.6.1)

To share capacity on the Network for the safe carriage of passengers and goods in the most efficient and economical manner in the overall interest of current and prospective users and providers of the railway services.

Decision Criteria Considerations (4.6.2)	Relevance (Yes or N/A)	Weighting	Evidence	Network Rail Opinion
a Maintaining, developing, and improving the capability of the Network;	Yes	High	<p>The signalling between Llanelli and Whitland is life expired with an increasing number of failures. Resignalling this stretch of line was published in the Business Plan for CP7. As with all resignalling schemes, access will be required for construction work, level crossing upgrades (4 CCTV, 1 AHB), pre testing, commissioning and recoveries.</p> <p>The track recovery work is required for safety compliance reasons. With redundant track left in situ, asset management records are not entirely accurate. This increases the level of risk associated with track inspections requiring additional management resources.</p>	<p>Access is required to undertake this extensive construction work, given the removal of red zone working. Given limited access point locations and challenging topography over the 25 mile site and the nature of the work, with RRVs and cable runs; double line blocks will be required for most of the work, which will not easily be handed back to run trains.</p> <p>If the redundant track work is not removed, then the line in question will potentially require additional precautionary measures, such as TSRs. Network Rail needs to remove the risk by removing these redundant assets.</p>
b That the spread of services reflects demand;	Yes	High	<p>There are three operators in the area. Transport for Wales is the dominant operator, with a seasonal demand during holiday periods and especially the summer. Trains are busier during the daytime than at night.</p>	<p>Network Rail has taken feedback from all three operators on board. Access has been proposed in such a way that spreads the impact between operators. DB Cargo traffic from Robeston cannot be diverted, so lengthy possessions</p>

				<p>DB Cargo have a number of oil trains to and from Robeston oil terminal. These generally run overnight, with a higher demand during the winter period. GWR operate around 12 trains each day, but this number is relatively new to their operation. GWR have stated that they will not accept summer access in the area due to the high level of leisure travellers.</p>	<p>preventing these trains from running would not be acceptable to the economy. To balance the above, significantly disruptive access has not been requested in the summer in order to take account passenger operators wishes for West Wales to be open during this period. This, Network Rail, considers the best way to balance the spread of services against demand.</p>
c	Maintaining and improving train service performance;	Yes	High	<p>There has been an increase in the number of failures in the area in recent years. Without the resignalling scheme, this is a number which is set to increase.</p>	<p>Network Rail believes that if this access is not taken, there will be a detrimental effect on performance.</p>
d	That journey times are as short as reasonably possible;	Yes	Low	<p>Most possessions proposed are between Llanelli and Whitland. This is the full geography of the area to be resignalled.</p>	<p>Road replacement services will be required to operate between Llanelli and Whitland. Should the geography of the possessions be reduced, bus replacements would only be reduced to Carmarthen at the west end, but this would require an increase in the number of weeks possessions are taken to complete the project. Overall, journey times will be increased as a result of this access.</p>
e	Maintaining and improving an integrated system of transport for passengers and goods;	Yes	Medium/ High	<p>The proposed access plan allows the higher priority passenger services in the summer months to operate, whilst also allowing the higher priority midweek freight services to operate in the winter.</p>	<p>The access plan proposed allows an integrated system of transport to operate, as high priority flows for both passenger and freight sectors are able to operate as much as possible.</p>

f	The commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable Participant of which Network Rail is aware;	Yes	High	The project is a £160m major renewals project. Should the access be declined, the project would have to be extended in time, potentially adding a further £5 - £10 million to it.	Should the access for this project be declined, it will either result in abortive costs to Network Rail and increased costs, taking funds allocated to other projects. The existing overspend on this project has already compromised the plan for a West Wales Resignalling scheme in CP7. This would potentially have a significant impact on the financial performance of Network Rail.
g	Seeking consistency with any Long-Term Plan and any relevant Development Timetable produced by an ESG.	N/A	N/A		
h	That, as far as possible, International Paths included in the New Working Timetable at D-48 are not subsequently changed;	N/A	N/A		
i	Mitigating the effect on the environment;	Yes	Low	The impact on Robeston oil traffic has been kept to the minimum level possible, thus reducing the requirement to operate significant road transport in place of trains.	Overall environmental impact should not be increased as a result of this access proposal.
j	Enabling operators of trains to utilise their assets efficiently;	Yes	Low	Transport for Wales would still be able to operate a train service west of Whitland, allowing units in the west of the area to be utilised. Access affecting freight traffic has been minimised as much as possible, allowing efficient use of wagons and locomotives. With the exception of the commissioning possession, access requests have been limited to 52hrs (despite longer access being more efficient) to limit the effect of	Transport for Wales will not always be able to utilise their assets as efficiently as they would like. This is particularly true of the proposed midweek daytime access. However, give the number of weekend winter possessions that affect the freight flows, in order to satisfy part (b) of this criteria, midweek daytime access has been proposed.

				any individual possession on passenger and freight traffic. The overall quantity of disruptive access will not diminish if the work is delayed.	
k	Avoiding changes, as far as possible, to a Strategic Train Slot other than changes which are consistent with the intended purpose of the Strategic Path to which the Strategic Train Slot relates; and	N/A	N/A		
l	No International Freight Train Slot included in section A of an International Freight Capacity Notice shall be changed.	N/A	N/A		
Decision Taken: Network Rail should take all of the access requests required by the project. Declining the access, without putting in place suitable realistic alternatives will further delay this project, adding to its costs and overall disruption to operators through poor performance and non compliance.					

Having considered all of the above and as detailed in Condition D4.6.2, Network Rail submits that the decision to take the requested access is justified by reference to the Network Code and supports the Objective as detailed within Condition D4.6.1 to assist in achieving the safe carriage of passengers and goods in the most efficient and economical manner in the overall interest of current and prospective users and providers of the railway service.