

Enquiries to: Lauren Browne

Secretary of State for Transport
c/o Transport Infrastructure Planning Unit,
Zone 1/18
Department for Transport,
Great Minster House,
33 Horseferry Road,
London,
SW1P 4DR

Martin Farrington
Director of City Development
Leeds City Council
Merrion House
110 Merrion Centre
Leeds, LS2 8BB

Telephone: 0113 3786014
Email: martin.farrington@leeds.gov.uk

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Dear Sir/Madam,

The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 - Network Rail Leeds to Micklefield TWA Order

SECTION 1 - INTRODUCTION

The following submission is made under rule 21 of The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and is made by Leeds City Council, of Civic Hall Calverley Street Leeds LS1 1UR in its various capacities including landowner, planning and highway authority.

Leeds City Council (The Council) welcomes Network Rail's Transport and Works Act Order application to the Secretary of State for Transport for the Leeds to Micklefield scheme. The Council fully recognises and supports the stated principal outcomes of the scheme, namely:

1. **Improved Safety:** delivery of a safe way of passage for existing level crossing users across a number of level crossings, either via alternative routes, or new crossing structures.
2. **Efficiency and reliability of the railway:** The closure of the level crossings and the installation of electrification equipment will help to provide the capability to regulate both freight and passenger trains.
3. **Modernised signalling** will mean shorter headways between trains, meaning they can run closer together through more effective digital controls in place, and this in turn will allow for increased capacity in the number of trains that can be on the route at any one time.
4. **Reduced operating and maintenance costs** as a result of the closure of the level crossings that need to be inspected, maintained and operated and the delivery of new track and

electrification equipment. This will improve the reliability of the route and the train services operating on it.

5. **Reduction of delays to trains and other highway users:** The closure of the level crossings will reduce the number of incidents which have a detrimental impact on train performance. Improved efficiency on the railway means fewer heavy vehicles on the highway network causing traffic issues and contributing to air pollution.

The Council recognises that a lot of work has been undertaken by Network Rail in partnership with the Council's own technical officers over the course of the evolution of the scheme, and that much of the detail has been discussed through technical meetings with Council Officers as referenced by Network Rail in document NR07.

The Council is aware that the application for the Transport and Works Act Order is a large set of documents that contains a lot of detail. Notwithstanding the level of detail submitted, there are a number of areas where the Council requires further information in order to be satisfied that the scheme can be delivered without unacceptable impacts on the carrying out of the Council's various statutory functions.

Appendix 1 sets out in detail the areas in which the Council require further information or clarification and where errors in the application documentation have been identified by the Council.

Whilst being fully committed to and supportive of the scheme, there are a number of areas where further collaboration is required to agree some of the detail of the scheme, particularly during the construction phases and understanding the extent and timeframe for each construction phase.

The Council's Rule 21 representation to the Transport and Works Act Order application is structured in two parts:

1. This introduction, where the Council's overall support for and commitment to, the Transpennine Route Upgrade between Leeds and Micklefield is set out.
2. Issue specific representations which cover in greater detail technical issues that Officers in the Council have raised throughout the afore-mentioned partnership working process and where the Council considers that:
 - a. Modifications to the Order and/or the draft deemed planning permission are required;
 - b. Further information should be provided to justify the design decision taken; or
 - c. Mechanisms for the submission and approval of further information needs to be provided as part of the future partnership working between Network Rail and the Council.

This section contains the Council's rationale for suggested amendments to proposed conditions and new proposed conditions (see Appendix 1) to deal with the lack of information provided, errors in that information or to ensure that the design or construction methodology does not impact, in the Council's opinion, more than absolutely necessary on residents.

Appendix 1 comprises a working document, detailing specific technical concerns and/or points of detail identified by the Council's various technical teams and which the Council considers will need to be addressed, or further detail provided, prior to the implementation of the relevant Works or Stage.

SECTION 2 – ISSUE SPECIFIC REPRESENTATIONS

Approach to use of permitted development rights

1. The Council notes that the definition of "authorised works" contained within Article 2 (Interpretation) of the draft Order (Document Ref: NR02) is as follows, "*the scheduled works and any other works authorised by this Order the planning permission and the Town and Country Planning (General Permitted Development) (England) Order 2015 including Part 18 of Schedule 2 to that Order or any part of them*".
2. Network Rail explains in the Explanatory Memorandum (Document Ref: NR03) that the definition has been "*widened to include both the Scheduled Works (which are the subject of the request for deemed planning permission) and also works which falls within permitted development rights and*

planning permissions which are to be secured by Network Rail, as are identified in the List of Permission and Consents."

3. Notwithstanding that certain works may be consented pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (**GPDO**), Network Rail has included these in the draft Order, but has not subsequently listed these works on the Works and Land Drawings (Document Reference NR09). In addition, those works listed in the List of Permission and Consents (Document Ref: NR18) only refers to permitted development which requires prior approval. Those applications for prior approval set out in NR18 relate to works to Kirkgate Bridge, the replacement of Marsh Lane Bridge and works to an underbridge in the vicinity of Neville Hill Depot. The Council is aware of a number of other works that are proposed to be carried out under permitted development rights, which have not been listed in document NR18. For example, the set-up of working compounds, storage areas, and accesses to the same. It is essential that this is detailed.
4. The Environmental Report Volume 1 (Document Reference NR16) makes clear, at paragraph 1.3.4 that the scope of the environmental assessment "*does not consider the effects of certain additional elements which are either to be carried out as permitted development or through planning permission obtained separately from the local planning authority. The proposed Leeds to Micklefield Enhancements Order includes provisions to facilitate these elements but does not authorise the works. These elements are not included in the scope of this Report.*"
5. The draft Order therefore has the effect of granting powers and rights to Network Rail to carry out works which go beyond the works consented within the Order, and which have not been taken into account in the assessment of the environmental impacts of the Scheme. The Council therefore questions whether the approach taken to the use of permitted development rights is correct and justifiable especially where permitted development rights are not capable of being relied upon where it would otherwise comprise EIA development which when taken as a whole the scheme is.

Approach to consents sought within the draft Order

6. The Council is not clear on Network Rail's rationale for its approach to consenting this stretch of the Transpennine Route Upgrade. The Council notes that Network Rail is seeking to include powers granted under the draft Order, together with consents granted (or expected to be granted) pursuant to prior approval applications. This appears to differ from the approach taken in The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 and the draft The Network Rail (Church Fenton Level Crossing Reduction) Order where the Orders include works either granted (or to be granted) only pursuant to the details contained in the relevant Order (and not including additional prior approval or planning applications). The reason for deviation from these precedents is not clear.
7. The Council is concerned that by dealing with the consents in this way, it is not clear whether the impacts of the Scheme have been properly assessed.
8. In addition, Network Rail appear to be splitting mitigation to the works authorised under the draft Order and the deemed planning permission. For example, the Code of Construction Practice is split into Part A and Part B and the scheme components that fall under the relevant mitigation is not clear. However there is inconsistency in the document itself in relation to the terminology used, which in itself makes the whole document unclear as to which element of the works it applies to.
9. The Council would welcome an explanation from Network Rail as to why it has taken this approach with the Scheme, which is a variation to the approach taken in other applications for other parts of the Transpennine Route Upgrade.

Level of detail in application documents

10. The Council is concerned that the Application documents submitted are generally lacking in information and detail, such that the Council, in carrying out its various statutory functions, is not able to adequately review the proposals.

11. For example, the proposals for the Neville Hill temporary compound, which are not included within the Application for the Order are unclear. Further clarification from Network Rail is required for the Council to properly understand what is proposed. The Council understands that these works will be carried out under permitted development rights. The Council has previously provided comments on the proposed compound and the associated traffic impacts, and the accesses from the existing access off Pontefract Lane and the proposed new access at Newmarket Approach. However, the Application does not include sufficient details of the level of traffic that will be using the new access off Market Approach for access to the compound.
12. In addition, the provision of a construction traffic management plan is proposed in the Code of Construction Practice (Document Ref: NR17) and as a deemed planning condition. However the Council notes that, whilst a construction traffic management plan is welcomed by the Council, any construction traffic management plan requires substantially more information, including diversion details, public parking management, other movement restrictions, details of access to properties, and accommodation of pedestrian/cyclist movements. This detail is currently not shown in the draft construction traffic management plan.
13. The above are just some of the examples where there is detail lacking in the Application documents submitted by Network Rail. Further examples of where information is limited is included in Appendix 1. The Council will continue working with Network Rail to discuss any of the additional information required.

Errors in the Order and application document

14. The Council notes that the Application as submitted contains a significant number of errors throughout. Some examples are as follows:
 - a. Street names have been incorrectly labelled in Schedule 3 (*Streets subject to street works*) of the draft Order:
 - i. Wybeck Avenue should be Wykebeck Avenue,
 - ii. William Parkin Lane should be A6120 William Parkin Way or William Parkin Way
 - b. Article 41(1)(a) (*Traffic regulation*) of the draft Order refers to the City of Leeds being located in the County of North Yorkshire. This is incorrect.
 - c. Article 44(4) (*Removal of human remains*) of the draft Order:
 - i. refers to Birmingham City Council when this should be Leeds City Council
 - ii. refers to the "Authority" throughout when this is not defined in the drafting
15. Further examples of errors in the draft Order and other Application documents can be found in Appendix 1. The Council would require that these errors are corrected in the next iteration of the draft Order.

Application Plans

16. The land over which Network Rail has control does not appear to be shown in the Application documents. However Network Rail is applying for powers and planning consent over such land, together with carrying out works under separate permitted development rights. The Council is concerned that in taking this approach it does not allow the Council, as a party with statutory functions, to be able to properly assess the impacts of the Scheme on its functions. It also creates further difficulty in managing the project and, for example, subsequent discharges of conditions as various approaches are proposed to be used. Nor does it allow the Inspector(s) or Secretary of State to adequately assess the Scheme, and ensure that the cumulative impacts of the various forms of consent are taken into consideration.
17. In addition to the above, the plans show the Scheme split into distinct elements as shown on the various works and land plans, and planning drawings. There is no continuous red line boundary of the Scheme which the Council would expect to see on a linear scheme such as this. The Council is not clear on the reasoning behind Network Rail taking this approach, nor the precedent for doing so.

18. The Council notes that there is open space affected by the Scheme at Penny Pocket Park (south of the existing railway and north of Kirkgate). However no open space plans have been included as part of the Application documents. The Council notes that an application has been made to the Secretary of State for certification under section 19 of the Acquisition of Land Act 1981 (**ALA 1981**) that no replacement open space land is required so it is clear that Network Rail recognises there is open space affected by the Scheme and as such open space plans should be provided.

Approach to land acquisition

19. The Council has a number of concerns relating to Network Rail's approach to compulsory acquisition of land for the Scheme:

a. Open space acquisition

- i. As is mentioned above Network Rail is seeking certification from the Secretary of State under section 19 of the ALA 1981 that no replacement land is required for the open space land to be affected and acquired in relation to the Scheme.
- ii. The Council would query on what basis Network Rail is able to justify the assertion that no replacement land is required. Under section 19 of the ALA 1981, where an order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied that:
 1. Land will be given in exchange;
 2. The land being purchased is to in order to secure its preservation or improve its management; or
 3. The open space land to be acquired does not exceed 250 square yards.
- iii. An example of the open space affected as a result of the Scheme is Penny Pocket Park which sits south of the railway line and north of Kirkgate. This land is designated as green space in the adopted Local Plan and further consideration is required by the Council to be given by Network Rail as to how its effects on this can be mitigated.
- iv. In addition, Network Rail calculates the area of open space to be acquired within the Scheme as being approximately 190 square metres (approx. 227 square yards). However the Council calculates the affected area as being 382 square metres (approximately 456 square yards), as per Appendix 1. The Council would welcome sight of Network Rail's basis for its own calculation.
- v. Based on the Council's calculation of the affected open space, the Council would welcome Network Rail's proposals for appropriate replacement land, and would invite the Secretary of State to refuse the request for a certification on section 19 ALA 1981.

b. Overall justification for land acquisition

- i. The Council views Network Rail's overall justification for compulsory acquisition as inadequate and not in compliance with the tests of necessity, proportionality and being in the public interest. For example, plots have been included for compulsory acquisition, on which no works listed in the Order are currently proposed.
- ii. Specifically, Network Rail is seeking to include acquisition of land, rights in land and temporary possession of land relating to works that have been consented (or are subject to applications for consent) outside of this Application. We have explained the Council's disagreement and confusion in respect of the definition of "authorised works" above. Part 2 of Schedule 2 (*Relating to authorised works (excluding scheduled works)*) of the draft Order lists out a significant number of plots that Network Rail requires for works that form "*any other works authorised by this Order, the planning permission and the Town and Country Planning (General Permitted Development) (England) Order 2015 including Part 18 of Schedule 2 to that Order or any part of them*". Article 22(1)(a) of the draft Order gives the powers to Network Rail to acquire the land required for the "authorised works". The Council does not agree with Network Rail's approach to land acquisition where the Order seeks to acquire land/rights for works not consented by the draft TWAO.

- iii. Given this very broad definition and powers included, the Council would expect to see more detailed information as to the specifics for what the land is required for.
- iv. Examples include:
 - 1. Land at New Market Approach (Plots 4-001 and 4-003) have been included for permanent acquisition. However in discussions with the Council, Network Rail's rationale for the use of this land has changed on a regular basis. The draft Order notes at Schedule 2 (*Acquisition of certain lands for ancillary works*) that this is required for provision of a permanent access for rail related purposes. However the Council has previously been advised that the land is required for altering the route to Pontefract Road, as well as for the relocations of businesses from the vicinity of the Neville Hill Depot site to elsewhere. Network Rail's justification for the acquisition of this land is not sufficiently clear.
 - 2. Plot 1-018 is listed to be acquired temporarily for access and construction. However there is no indication in the works plans or other application documents what the extent of the area will be used for construction or access.
- v. Conversely there are instances where it would appear that Network Rail has not included sufficient land within the Application in order to provide for, for example, replacement bridges to be built to the correct standard. Whilst the Council appreciates that Network Rail needs to take a proportionate approach to land to be acquired compulsorily, the Council's view is that building structures in accordance with the most up-to-date guidance and standards would be a justifiable reason for acquiring land.
- vi. The Council looks forward to receiving further information from Network Rail setting out its justification for the compulsory acquisition of all of the Council-owned plots, together with its reasoning for taking this approach more generally.

Approach to level crossings

- 20. The Council would like further information and clarity from Network Rail in relation to its approach to the level crossings in the Applications documents.
- 21. Specifically, there are four level crossings that are to be closed as part of the Application:
 - a. Barrowby Lane and Barrowby Foot level crossings;
 - b. Garforth Moor level crossing;
 - c. Peckfield level crossing; and
 - d. Highroyds Wood level crossing
- 22. The Council notes, however, that only deemed consent has been included for the Peckfield level crossing in the draft Order, but none of the other level crossings. The Council notes that the List of Consents, Permissions or Licences Under Other Enactments (Document Reference: NR18) does not include reference to any other consent received or applied for in relation to the above level crossings. Peckfield level crossing is currently the only proposed level crossing without an appropriate diversion. A full list of the consents required outside of the Transport and Works Act process, that the Council is aware of, have been previously provided by Network Rail to the Council and this does not align with those included in the Application.

Biodiversity Net Gain

- 23. The Council notes that Network Rail state in document NR13 that it is committed to deliver 10% Biodiversity Net Gain (BNG) via the Network Rail (2020b) Transpennine Route Upgrade – Programme wide Net Positive Biodiversity Strategy (Revision P03.1), and a BNG assessment will be carried out to meet the Strategy objectives. BNG will be delivered locally wherever practicable.”
- 24. In addition to the National Planning Policy Framework requirement (paragraph 174b) that requires net gain to be achieved in a measurable way, planning policy G9 of the Leeds City Council's Core Strategy requires a net gain for development.

25. Policy G9 requires that Development is required to demonstrate:
- That there will be an overall net gain for biodiversity commensurate with the scale of the development, including a positive contribution to the habitat network through habitat protection, creation and enhancement, and
 - The design of new development, including landscape, enhances existing wildlife habitats and provides new areas and opportunities for wildlife, and
 - That there is no significant adverse impact on the integrity and connectivity of the Leeds Habitat Network.
26. The Environment Act 2021 contains a requirement to provide a minimum of 10% net gain in relation to all new developments. Whilst the specific provisions dealing with biodiversity net gain are not yet in force as of today's date, these are expected to be coming into force in November 2023, ahead of the decision on the deemed planning consent and Transport and Works Act Order,
27. On all development the Council seeks a minimum of 10% net gain, which is expected to be delivered through the Council's guidance in the Council's administrative area.
28. The Council notes the commitments made by Network Rail in NR13 and requests that a more specific and deliverable commitment is made to secure 10% net gain within the Council's administrative area which is policy compliant. Furthermore, the Council has not been provided with any baseline calculations or measurements for Network Rail's assessment of the net gain which the Council would like to review in order to confirm the approach taken.
29. The commitment requested by the Council can be achieved through amendment of the relevant deemed planning conditions as set out in more detail in Appendix 1. In addition the Council looks forward to receipt of Network Rail's baseline calculations and to holding further discussions on this point.

Ecology – Great Crested Newts and Other Protected Species

30. Network Rail highlights in its Environmental Statement (Document reference: NR17) at paragraph 2.1.13 that great crested newts have been confirmed as present in ponds adjacent to the Austhorpe Lane Southeast compound and that mitigation for the effects on great crested newts is contained in paragraph 4.3 of the Code of Construction Practice (**CoCP**) (Document reference: NR17). The Council notes, however that paragraph 4.3.2 of the CoCP states that:

"In the event there is potential for the disturbance of any great crested newts in the compound location at Austhorpe Lane, Network Rail would utilise its operating organisational licence and submit information to NatureSpace, rather than a standard licence application made to Natural England."

31. The Council has not been provided with any justification for Network Rail's approach in not seeking a licence from Natural England, as is standard, nor, save for one email, has the Council received any details of the information to be submitted to NatureSpace that would mitigate the effects of construction on the great crested newts. The Council requires commitments within the Application itself that demonstrate that the mitigation for the effects on great crested newts and any other protected species, will be sufficient, and will be secured. Further information is required by the Council in relation to other protected species that may be affected by the Scheme, that have not been already been identified.

Deemed Consents and disapplication of other legislation

32. Discussions are ongoing with Network Rail in respect of the deemed planning permission sought as part of the TWAO and the conditions sought within the draft Order. The Council have particular concerns that some of the consultation to be undertaken with the Council in its capacity as local planning authority would happen retrospectively for example, condition 5 states *"Within 6 months of the commencement of the development for that stage"*.
33. In addition, the Council is concerned that Network Rail is seeking to disapply the provisions of the Neighbourhood Planning Act 2017 relating to the temporary possession of land, with the effect that the level of notice to be given by Network Rail under the draft Order would be significantly less than

is required under the statute. The Council notes that the relevant provisions of the Neighbourhood Planning Act 2017 are not yet in force. However should they come into force between now and the implementation of the Order, the Council would wish to rely on the notice period set out in section 20 of the Neighbourhood Planning Act, which requires at least 3 months' notice be given to landowners, as opposed to the 14 days proposed in Article 28(2) of the draft Order.

34. In reviewing the standard conditions deemed planning conditions against the conditions proposed in this instance, the Council have proposed amendments to those proposed to make the conditions more responsive to the Council. Discussions are ongoing in this regard. More detailed comments on the draft deemed planning conditions are set out in Appendix 1.

Planning policy and guidance

35. Network Rail has set out a number of planning policies on which it is seeking to rely on in relation to the planning justification for the Scheme. These policies are listed in the Planning Statement (Document Ref: NR13). However a number of these policies are referred to incorrectly, include incorrect references, are now out of date or have been superseded. The Council sets out the correct policies that the inspector should refer to at Appendices 1 and 2.
36. The Council wishes to provide the Inspector with an update on the latest position with the Council's Site Allocation Examination. Representations made during consultation up to 27 January 2023 were submitted to the Inspector by the Council and the Inspector's report is expected to be received in August 2023. Currently the Site Allocations Plan is still in examination.
37. As part of the examination of the site allocations plan, the Council agreed to remove housing from a Green Belt site, which forms part of the land required for the Scheme. See Plots [8-001, 8-003A, 8-003, and 8-005]. The Council's view is that exceptional circumstances apply in order to meet employment needs in relation to this site. The Council understands that the current proposal is to use the above plots for a temporary construction site.
38. The above plots form part of a strategic development site for the Council and at this stage the Council objects to the use of this land on a temporary basis for construction. This is especially so given that the Council has not been provided with sufficient information as to the extent of the time for which the temporary compound will be operational. In addition, the Council has already accepted the location of another temporary compound in relation to this Scheme. The Council has proposed an alternative site for the compound, which has not been taken into account by Network Rail.
39. Further information is also required regarding timescales for required compounds, and proposed reinstatements. Without sufficient information impacts on land allocation, designation, reinstatement and delivery on other schemes/developments such as at Wykebeck Avenue [see plots 6-001, 6-002, 6-003 and 6-004] cannot be wholly accounted for and allocated sites may be compromised

Deemed Planning Conditions

40. The Council has included, at Appendix 1, a list of deemed planning conditions that it would expect to see in relation to the proposed Scheme, together with amendments to the conditions already proposed by Network Rail.

Replacement of Structures

41. The Council is aware from discussions with Network Rail to date, that where replacement of structures is proposed, that Network Rail is proposing that structures are replaced on a "like for like" basis. The Council has concerns about this approach, which have been expressed to Network Rail, where existing structures are considered sub-standard in line with current design standards and in need of updating to meet current accessibility requirements, Network Rail needs to demonstrate this.
42. The Council would expect to see all replacement structures built in accordance with paragraphs 110 and 112 of the NPPF which provides that;

- a. the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46;
- b. applications for development should:
 - i. address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
 - ii. create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

Highways

43. To date, there has been a lack of detail provided by Network Rail regarding how the impacts on the highway network, including any permanent or temporary road closures and diversions, will be managed throughout the construction period and their overall impact post construction. Insufficient information has been provided regarding the extent of the construction period and what each phase of construction will consist of. A clear plan of the proposed phases of construction would be welcomed by the Council in order for it to properly understand the construction impacts of the Scheme and how they can be managed appropriately.
44. It is also not clear from the discussions with Network Rail to date which statutory undertakers have been consulted and what their views have been in respect of any diversions or work required to their infrastructure and any impacts that any such works may have on the operation of the highway network. As set out in Appendix 1, the Council own a number of service tunnels which are impacted by the Scheme. It is not clear from the provisions included in the draft TWAO whether such service tunnels are classed as "apparatus" for the purpose of the TWAO.
45. There has been a lack of detail provided around the movement of construction traffic, Abnormal Indivisible Loads (AILs) (and the process through which their movements will be authorised and managed) and available routes for emergency vehicles, especially for access to St James Hospital whilst works are ongoing in that location.
46. Additional detail is also required in relation to any permanent restrictions (e.g. parking and loading restrictions) sought by Network Rail and how they are to be secured. From the information received to date, it is not clear whether any such restrictions will be secured within the TWAO or outside of the TWAO using the Council's usual procedures.
47. The Council looks forward to receiving an update from Network Rail as to when a draft Communications Plan will be sent to the Council, the terms of which can be secured through the Side Agreement to be agreed between Network Rail and the Council.
48. The Council also has concerns around the disapplication of legislation within the draft TWAO and welcome further discussions with Network Rail in this regard to properly understand Network Rail's intentions in particular in respect of the disapplication of part of the New Roads and Street Works Act 1991. The Council is concerned that the disapplication of certain provisions negates the need for Network Rail to comply with the notice periods expected by the Council.
49. Traffic data – The council are concerned that the transport assessment submitted with the application does not use up to date traffic data which includes traffic figures since the opening of the East Leeds Orbital Route.

Austhorpe Lane

50. The Council is aware, through discussions that have taken place with Network Rail to date, that it is Network Rail's intention that the Austhorpe Lane Bridge will be demolished to enable the electrification underneath it, and replaced with a two-lane bridge, incorporating a footway in the same single structure. It is understood that designs are still being worked up in this regard. Whilst the Council is supportive of the proposals in principle, and welcomes the negotiations to date, further

detail is required from Network Rail in respect of the proposed design standard to which the new structure is built, the process for which approval will be sought from the Council, as well as the proposals for the stopping up (and definition of) of Austhorpe Lane.

51. Network Rail requested the Council make a contribution of £800,000 to the new structure following negotiation on the proposed replacement structure. This is not agreed by the Council on the basis that it remains the Council's view that structures should meet current standards set out in the Design Manual for Roads and Bridges or as agreed with the Council in its capacity as local highway authority. Network Rail's original proposal did not meet the required criteria and would have built health and safety issues into the design. The Council has also confirmed to Network Rail that the structure would need to be owned and maintained by Network Rail. Discussions are ongoing between the Council and Network Rail in this regard.
52. In respect of the high pressure gas main in this location that would be impacted as a result of the works to Austhorpe Lane, and the diversion required, the Council requested an arboricultural impact assessment and mitigation plan from Network Rail regarding the location of the gas main diversion required as part of the bridge works and the ecological and arboricultural impacts it will have on the adjoining Green Park. This is yet to be provided by Network Rail.
53. The Council has asked Network Rail to look at possible changes to the location of the intended diversion in order to mitigate these impacts. Network Rail has indicated that they have provided sufficient justification for the location and intend to include this within the TWAO submission. Further information is still considered necessary (for the reasons set out in Appendix 1).

Safe access to compounds

54. As detailed in Appendix 1 the Council have substantiated concerns in relation to the lack of clarity provided by Network Rail to date in relation to the timeframes during which temporary compounds are required. This makes assessing the impact (and any concerns arising from this) challenging as it is not clear whether the impact will be short or long-term. As previously drafted, the draft TWAO gave proposed timescales for the temporary works, but this is not set out in the current version submitted with the application. The Council require an explanation as to why this information has been removed from the submitted version of the draft TWAO and provision of more detailed information from Network Rail, so that highway impacts can be assessed in a more meaningful way. From the information currently available, it is not possible for the Council, in its capacity as local highway authority to consider the traffic management required at each compound location where access is required from the highway. The accesses that are relevant here as detailed in Appendix 1.

Code of Construction Practice

55. The Code of Construction Practice (COCP) proposed by Network Rail is proposed to be provided in two parts; Part A and Part B. To date, the Council has only had sight of Part A.
56. The Council's comments on Part A are set out in Appendix 1. Discussions are ongoing with Network Rail to ensure that the COCP contains the relevant measures and standards to be followed throughout the construction period and ensure that that the proposed construction-related mitigation identified in the Environmental Report is committed to by Network Rail.
57. It is important to the Council to ensure that it contains the required mechanisms to ensure that residents are able to report any issues directly to Network Rail and its contractors during the construction period.
58. The Council cannot agree to the provisions in the COCP in totality until it has been provided with COCP Part B and been able to assess both parts in conjunction with each other. To date there appear to be contradictions between Parts A and B as set out in NR16 and 17 as to which part of the works Part A and B are intended to apply to.

Side Agreement

59. As set out above, the Council is of the view that greater clarity is needed in respect of the powers being sought under the TWAO relating to works needing to be carried out on the highway or to highway infrastructure to facilitate the construction of the Scheme.
60. Clarity is needed in order to avoid issues concerning traffic management, the mechanism under which works to the highway will be carried out, how disruption to users of the highway network will be managed, traffic management plan, and blue badge parking bays temporary closures.
61. In addition to the wording of the planning condition proposed by Network Rail, the traffic management plan requested by the Council should additionally provide full details of all road closures and diversions for each stage of the proposed works, including any time constraints to accurately predict the impact on specific waste collection routes. The Council would seek opportunity to engage early with Network Rail to suggest diversion routes based on local operational knowledge. The timing is critical to ensure correct processes are put in place to ensure minimum disruption to the network.
62. The Council considers that any engagement, detail of works and mechanisms for securing works are capable of being agreed through the Side Agreement to ensure early engagement with the Council in its capacity as highway authority where necessary.
63. Network Rail has provided the Council with a draft Highways Side Agreement which is anticipated will set out the agreed position between the Council and Network Rail in relation to those matters. Until those matters are agreed, the Council will not be in a position to withdraw its objection in principle to the Scheme.

Approach to closure of Peckfield Level Crossing

64. Concerns have been raised by the Council regarding the proposed diversion of the bridleway and footpath required as a result of the proposed closure of Peckfield Level Crossing. Network Rail has undertaken an options assessment of alternative solutions for bridleway and pedestrian users. Two options are now included in the TWAO as a result of feedback from consultees during the consultation process and the options evaluation. The Council understand that it is Network Rail's intention to let the Secretary of State determine the most appropriate solution.
65. The Council is still considering the options proposed by Network Rail and discussions are ongoing with Network Rail as to the suitability of the current options proposed. A further update will be provided to the Secretary of State of the Council's position on this issue, following further discussion with Network Rail.

Communication Plan

66. The Council has requested a Communication Plan (and means of public engagement by Network Rail) setting out the proposed communication plan from Network Rail detailing how communication of all works and impacts on residents and all key stakeholders including Ward Members will be provided. Such a plan should include the following (which is not an inclusive list); dates, times and diversion plans for any highway works that are required and will affect users of the highway during the construction period of the Scheme as well as noise and vibration impacts. It is hoped that the Communications Plan will detail how Network Rail will deal with any unforeseen issues arising during construction in addition to means of public engagement and engagement with all key stakeholders and how Network Rail will keep ward members, local residents and businesses proactively informed of the works.

Sustainable Transport and PROW

67. The Council require additional information and further clarifications from Network Rail in respect of the impacts of the Scheme on the cycle routes across the City Centre and further afield (including the core cycle route 66 to East Leeds).
68. The specific locations of the cycle network across Leeds that the Council believe to be impacted most significantly are set out in detail in Appendix 1 (Transport Policy section). It is vitally important

that the construction impacts of the Scheme do not negatively impact on city centre cycle routes, and if there are negative impacts, the mitigation proposed must be clear, which isn't the case currently. Further discussion with Network Rail is welcomed to enable the Council to properly understand the impact on affected cycle routes, whether such impacts can be avoided or mitigated, and the form of mitigation to be agreed.

69. Appendix 1 sets out the locations at which works are proposed which the Council believe may clash with works proposed to the City Centre Cycle Loops scheme. The full impact of this clash need to be properly understood, which can only be done following provision of the requested clarification in Appendix 1. It is important that the construction programme for the Scheme is aligned to the planned works for the City Centre Cycle Loops scheme and any other impacted schemes.
70. It is the Council's view that there needs to be a clear plan in place by Network Rail to ensure that access to the affected routes are maintained and accessible for all. The position on this from the application documents submitted, is not yet clear.

Heritage

71. Mitigation has been agreed with Network Rail for the substantial harm caused by the demolition of the listed buildings as part of the proposed Scheme.
72. However further assessment is required to be discussed in detail with Network Rail in relation to the Kirkgate/Marsh Lane works, including the installation of signalling gantry in the vicinity of the Grade I listed Leeds Minster.
73. Paragraph 199 of the National Planning Policy Framework (NPPF) states that "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*"
74. In addition, paragraph 202 states, "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*"
75. The Council's view is that the impacts on the Minster as a result of the installation of the signalling gantry would cause less than substantial harm. This harm is not such that can be mitigated against but the Council would like to draw this to the Inspector's attention in the consideration of the Application.

Environmental Report

76. The Environmental Report Volume 1 (Document Reference: NR16) makes clear, at paragraph 1.3.4 that the scope of the environmental assessment "*does not consider the effects of certain additional elements which are either to be carried out as permitted development or through planning permission obtained separately from the local planning authority. The proposed Leeds to Micklefield Enhancements Order includes provisions to facilitate these elements but does not authorise the works. These elements are not included in the scope of this Report.*"
77. Given the above statement, the Council cannot at this stage carry out an assessment itself of the impacts on the environment, as a result of the Scheme, nor can it state whether any of the proposed mitigation is acceptable.
78. The Council appreciates that works may be consented outside of the Transport and Works Act process. However, these works do need to be considered on a cumulative basis when looking at the Transpennine Route Upgrade as a whole.
79. The Council also notes in the Environmental Report Volume 1 (Document Reference: NR16) at paragraph 1.5.2 that no technical studies have been carried out in relation to air quality as potentially significant effects "*will be avoided through construction works being carried out in compliance with*

Network Rail's Minimum Requirements for Projects – Design and Construction (NR/L2/ENV/015) (Document Reference: NR/L2/ENV/015, current version v9, 2021) and a Code of Construction Practice (CoCP), detailed in Section 1.5.5."

80. Paragraph 4.1.8 of the Environmental Report Volume 1 (Document Reference: NR16) does identify that there may be air quality impacts, and that these may be localised and temporary in nature.
81. The Council does not follow the logic of not including an air quality assessment in the Environmental Report, particularly where it has identified that there may be impacts, and that these impacts will be secured through the CoCP Part B. Given that mitigation is being provided for air quality effects, the Council would expect to see the assessment carried out to reach this conclusion.

Land contamination

82. Paragraph 183 of the NPPF requires that planning policies and decisions should ensure that:

"a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."

83. In addition, paragraph 184 of the NPPF makes clear that, *"Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."*
84. As currently drafted the proposed conditions for the deemed planning consent (Document Reference: NR12) do not require Network Rail to take on any responsibility for site investigation or remediation (if required) in relation to the works it is carrying out as part of the Scheme.
85. As a minimum the Council would expect to see a condition requiring Network Rail to carry out a site investigation, carry out ground investigation reports and submit these to the Council. In addition where any remediation is required to be carried out the Council would expect this to be identified by Network Rail, agreed with the Council and ultimately carried out by Network Rail.
86. The Council is under a statutory duty as the local authority to inspect its area, identify any contaminated land and decide whether such land is to be designated as a special site under the Environmental Protection Act 1990. The above requested condition will assist the Council in discharging its statutory duties, and is not an unusual condition to include in a proposed planning permission.

Conclusion

The Council strongly welcomes the economic, environmental, and social benefits the Scheme will bring to Leeds and surrounding areas, and the Council remains committed to assisting wherever possible, Network Rail in bringing the Scheme forward.

The Council understands that disruption during construction is to a certain extent inevitable but does not currently have sufficient information, in sufficient detail to be able to properly assess and understand the impacts of the Scheme on the businesses and residents of Leeds and how such impacts will be properly managed.

For these reasons we seek to ensure that our residents and businesses can move around the City as efficiently as possible during the construction, that their future is assured in terms of housing choice in a

greener and cleaner environment and that they do not disbenefit from the Council having to pay disproportionately for increased maintenance costs of legacy infrastructure.

The Council reiterates its full support in principle for the scheme and hopes that through further partnership working with Network Rail that as many as possible of the issues raised can be dealt with prior to the determination of the application by the Secretary of State, or else can be conditioned through the drafting of the Order, the negotiation of a side agreement and/ or through planning conditions.

The Council reserves the right to add to or vary the grounds of its in principle holding objection pending receipt of further information from Network Rail.

Please note that this letter does not constitute a formal objection to the TWA Order Application. The Council has not yet discharged its governance obligations in order to comply with S.239 of the Local Government Act 1972. It is hoped that matters set out in this in principle holding objection can be resolved in advance of needing to secure the approval of the Council to submit a formal objection. Should a formal objection be necessary this will be submitted as soon as the necessary approval has been secured.

Any correspondence relating to this representation can be sent using the contact details at the top of this letter.

Yours faithfully

Martin Farrington
Director of City Development
Leeds City Council