

TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004
THE NETWORK RAIL (STALYBRIDGE TO DIGGLE (SADDLEWORTH)) ORDER

Proof of Evidence

-of-

Tim Bettany-Simmons MRTPI

Canal & River Trust

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1. INTRODUCTION

Qualifications and Experience

1.1 My name is Tim Bettany-Simmons. I hold a Bachelor of Arts degree (with Honours) in Geography and Archaeology from the University of Liverpool and a Master of Science degree in Development Planning from Reading University. I am a Chartered Member of the Royal Town Planning Institute (RTPI) with over 20 years' experience. I am currently employed as a Senior Planner – Major Projects & Infrastructure at the Canal & River Trust (the **Trust**). This is a hybrid role working across the Trust's Spatial Planning Team and Planning Delivery Team. My primary Spatial Planning Team role is responding to major planning related matters on behalf of the Trust as a statutory consultee within the North-West of England and North Wales. My role also encompasses responding on Infrastructure Projects from across our waterway network, these include Nationally Significant Infrastructure Projects, Transport and Works Act Orders and Schedule 17 applications relating to High Speed 2. My primary role with the Trust's Planning Delivery Team is supporting the preparation and submission of a Development Consent Order including the Grand Union Canal Water Transfer Project, a joint project with Severn Trent and Affinity Water to facilitate the transfer of water from the Midlands to the South.

1.2 Prior to my current role I was employed at the Trust as an Area Planner (Major Projects and Infrastructure) and prior to that as Area Planner (North West). Before that I was Development Lead (Enforcement) at Stafford Borough Council; Development Management Officer (Major Applications) and then Development Management Lead at the South Downs National Park Authority. I have also held development management roles at both Guildford Borough Council and Woking Borough Council, both of which are in Surrey.

2. SCOPE OF EVIDENCE

2.1 The Trust's case in respect of the proposed Network Rail (Stalybridge to Diggle (Saddleworth) Enhancements) Order (**Order**) has been set out in our objection letter dated 19 December 2025 and accompanying Appendix A to that letter (**OBJ211/TBS/3.1**) and our Statement of Case (SoC) dated 23 February 2026 (**OBJ211/TBS/3.2**). Since these were submitted, some progress has been made with Network Rail Infrastructure Ltd (**Network Rail**) through negotiation of a draft side agreement. However, no formal agreement has been entered into in this regard and various matters of concern are still outstanding.

2.2 In my evidence I set out my concerns with the Order scheme's potential impacts on the Trust's undertaking, as informed by my own knowledge and experience and that of my

colleagues with engineering, hydrology and estates expertise. I explain the potential impacts of the Order scheme on the Trust's undertaking and the amendments and/or mitigation that I believe need to be secured to protect the Trust's undertaking. The inquiry will be updated on any progress made in negotiations with Network Rail to secure these.

2.3 I provide evidence about:

1. Role of the Canal & River Trust
2. Compulsory acquisition of Trust land
3. Powers sought under the draft Order engaging Trust assets and duties
4. Protective Provisions
5. Canal & River Trust Code of Practice
6. Structural integrity of the Waterway (Diggle and Brunclough Feeders and Standedge Tunnel)
7. Streetworks and Trust operational requirements
8. Planning conditions

2.4 This evidence addresses matters 5, 7 and 9 in the Secretary of State's Statement of Matters.

2.5 I refer to the evidence of the following Trust witnesses who are providing separate proofs of evidence to the Inquiry:

- Katie Hallam, Estates Surveyor, Canal & River Trust (**OBJ211/KH/1**)
- Seán McGinley, Director, Yorkshire & North East, Canal & River Trust (**OBJ211/SM/1**)
- Peter Simpson – Principal Engineer (Tunnels & Culverts) Canal & River Trust (**OBJ211/PS/1**)
- Stuart Catterall – Principal Engineer, North West & Yorkshire North East Regions Canal & River Trust (**OBJ211/SC/1**)
- Dr Adam Comerford - National Hydrology Manager, Canal & River Trust (**OBJ211/AC/1**)

3. BACKGROUND TO THE ORDER

3.1 I have been involved in pre-application discussions with Network Rail over the past 18-24 months in relation to the proposed Order scheme. These discussions have primarily focused on engineering matters related to Standedge Tunnel; the Trust's operational

requirements and potential environmental impacts of the works on the Trust-owned assets, in particular in relation to Standedge Tunnel (MVL3/39A); Uppermill Viaduct (MVL3/31); and interactions with the Huddersfield Narrow Canal (HNC) as a result of the Order.

3.2 The first pre-application response provided by the Trust on the Order scheme was a response to EIA Screening dated 8 March 2024 (**OBJ211/TBS/3.3**) and following this a formal pre-application response to the first stage public consultation dated 22 October 2024, (**OBJ211/TBS/3.4**). I prepared both responses. Prior to the Trust's pre-application response, I attended a number of workshops with Network Rail primarily focused on the proposed works over and around Standedge Tunnel and works associated with Uppermill Viaduct. Agreed minutes have been produced from these meetings, but I do not propose to burden the inquiry with unnecessary documentation and will focus on matters which are in dispute, or otherwise to be settled.

3.3 During negotiations, Network Rail has indicated several commitments to the Trust in correspondence, notably as included in the Trust's letter to Network Rail dated 2 April 2026 (**OBJ211/TBS/3.6**). During discussions with Network Rail, which remain ongoing, Network Rail has indicated that it would be willing to give a number of commitments which go some way towards addressing the Trust's concerns about the potential impacts which the Order scheme could have on its assets. Those have not, however, been secured to date (for example, in the form of a side agreement). In my evidence, and that of my colleagues, I therefore address the Trust's concerns with the Order on the basis that those commitments have not yet been secured and identify conditions, changes to the draft Order or other commitments which I consider would be required to address the Trust's concerns.

3.4 In my current role I have been leading on consulting internally and collating information for the formal responses of Canal & River Trust on the Order scheme and for negotiations.

4. ROLE OF CANAL & RIVER TRUST

4.1 The Trust's planning lawyer has provided me with the following information about the Trust's role and I am familiar with what this means in practical terms for my role as Senior Planner in protecting the Trust's undertaking. The Trust was incorporated and registered as a charity in 2012. The functions of British Waterways Board were transferred to the Trust by the British Waterways Board (Transfer of Functions) Order 2012 (SI 2012/1659) and by way of the Waterways Infrastructure Trust. The Waterways Infrastructure Trust is the trust settled by the Secretary of State for Environment, Food and Rural Affairs by way of a trust settlement deed dated 28 June 2012, under which the Trust holds the 'Infrastructure

Property' (comprising the waterways, towpaths and associated infrastructure). The objects of the trust include to hold the 'Infrastructure Property', for the public benefit, for use and enjoyment including for navigation, for walking on towpaths, for recreation in the interest of the public's health and social welfare as well as to protect and conserve the heritage interests of the 'Infrastructure Property' and to further the conservation, protection and improvement of the natural environment and landscape of the Infrastructure Property.

4.2 These objects are reflected in the Trust's Articles of Association.

4.3 The Order scheme runs alongside the Huddersfield Narrow Canal (HNC), for which the Trust is navigation authority. The HNC is a remainder waterway. A remainder waterway is one that is not classified as a 'commercial waterway' nor a 'cruising waterway' so the specific duties of the Transport Act 1968 to keep the waterway in a suitable condition for commercial or cruising vessels do not apply.

4.4 Under section 22 of the British Waterways Act 1995, the Trust has a duty in respect of remainder waterways. In considering any proposals relating to its functions, the Trust is to take into account the desirability of protecting remainder waterways for future use as cruising waterways, or as areas for other public recreational use. Under the same section, the Trust is to exercise its powers, when considering proposals related to its functions, so as to further the conservation and enhancement of natural beauty, to have regard to the desirability of protecting sites of engineering or historic interest and take into account any effects of a proposal on the beauty or amenity of an area or flora, fauna, features, buildings, sites or objects.

4.5 The Trust does not object to the principle of the Order scheme.

5. COMPULSORY ACQUISITION OF TRUST LAND

5.1 The Trust objects to the compulsory acquisition of Trust land as set out in our objection letter and in Katie Hallam's proof of evidence (**OBJ211/KH/1**).

5.2 In my opinion, the Trust has no option but to object to the Order and the compulsory acquisition and use of its land and rights. This is because the Trust is a statutory undertaker which has specific duties to protect the waterways for the public benefit. Accordingly, it has a duty to resist the use of compulsory purchase powers which may negatively affect its undertaking.

5.3 Greater detail is given in the evidence of Katie Hallam, including in terms of the lack of certainty of what is required in respect of each plot and concerns about why compulsory

acquisition is sought when it would seem that only rights/restrictive covenants may be required. If the Secretary of State considers compulsory acquisition powers in respect of Trust interests are necessary for the Order scheme, in spite of Network Rail's disregard for the Government's guidance and the Trust's repeated, stated willingness to enter into voluntary agreements, they should only grant the powers if those powers are conditional on obtaining the Trust's consent. That consent would not be unreasonably withheld or delayed.

6. POWERS SOUGHT UNDER THE DRAFT ORDER ENGAGING TRUST ASSETS AND DUTIES

Article 6 – Water abstraction

6.1 The Trust is also concerned that its undertaking is not sufficiently protected from potential impacts of the power sought in the draft Order (Article 6) to abstract water during construction without the need for an abstraction licence. The potential impacts of abstracting without an abstraction licence are set out in the Trust's objection letter and in greater detail in Dr Adam Comerford's proof of evidence (**OBJ211/AC/1**).

6.2 As Dr Comerford's evidence explains, section 66 of the Water Resources Act 1991 provides that only the Trust can be the applicant for a water abstraction licence for abstraction out of its network. This enables the Trust to manage the resources within its network, including the HNC, and ensure that there are sufficient resources available for navigation.

6.3 In light of Dr Comerford's evidence, in my view abstractions of any amount from the Trust's network should be only with the consent of the Trust. The precedent TWAO referred to in the Explanatory Memorandum (NR03) for the disapplication of the Water Resources Act 1991 by Network Rail is The Croyley Rail Link Order 2013 (No.1967). That Order contained protective provisions for the Trust, which included the requirement at paragraph 55(5) of Schedule 9 to the Order: *"The Council must not exercise any power conferred by this Order in such a way as to interfere with the supply of water to or the drainage of water from the waterway unless such exercise is with the consent of the Trust."*

6.4 I consider it necessary for the Trust to consent to any abstraction from its network and an acceptable solution would be to update paragraph 41(2) of Schedule 17 to the draft Order to read:

41(2) Nothing in article 6 (water abstraction) authorises Network Rail to abstract water from the waterway except with the consent of the Trust and Network Rail must not

carry out any abstraction until plans for such abstraction have been approved in writing by the engineer, such approval not to be unreasonably delayed or withheld.

This is shown in the Trust's proposed amended version of Schedule 17 Part 5 of the draft Order which contains the proposed protective provisions for the Trust (**OBJ211-TBS-3.13.**)

Article 9 - power to deviate

6.5 The Trust is also concerned that the power to deviate, sought by Network Rail in Article 9 of the Order has the potential to affect the Trust's undertaking at Standedge Tunnel (MVL3/39A). As set out in the Trust's objection letter (**OBJ211/TBS/3.1**) and SoC (**OBJ211/TBS/3.2**) Order scheme works would be permitted to, and could in theory, be constructed so as to engage Standedge Tunnel. In my view, this power should be limited in respect of Trust assets to prevent downward deviation to protect the integrity of Standedge Tunnel and ensure continued safe passage through the tunnel. I cannot see how a limit on this power would prevent the delivery of the Order scheme.

Article 20 – discharge of water

6.6 Dr Comerford's evidence (**OBJ211/AC/1**) explains the internal process review for discharges to the Trust's waterways which, given the management of water resources in the Trust's network, necessarily involves careful consideration of proposals. In my view, a 28 day period for consent to such discharges, as currently provided for in Article 20(8), is inappropriate for consents to discharge into the Trust's network. I consider that, as a minimum, a 56-day period would be sufficient, as explained in Dr Comerford's evidence. This mirrors the period for approval of detailed plans in paragraph 46 of the protective provisions for the Trust at Schedule 17 to the draft Order and so I expect this would not cause any delays to the delivery of the Order scheme. An amendment to this effect is shown in the proposed protective provisions for the Trust (**OBJ211-TBS-3.13.**)

Article 23 – temporary closure of and works in the HNC

6.7 Article 23 relates to powers to temporarily close off and carry out works in the HNC. I am concerned that this is a power with the potential to impact the Trust's undertaking as explained by Seán McGinley, in his evidence (**OBJ211/SM/1**). As Seán indicates, the Trust can manage navigation on its network better for the public benefit if any waterway closures are planned and carried out in agreement with the Trust's engineer, in accordance with the Trust's Code of Practice and within the Trust's annual stoppage programme. With such measures, closures can be properly planned and communicated to boaters and other users.

6.8 We are still awaiting formal clarification from Network Rail of the length of closures of the HNC proposed, duration and justification and which works would require a canal closure. At a meeting I attended on 9 March 2026, it was suggested by Network Rail that “*estimated closures would be weeks not months*” (**OBJ211/TBS/3.7**) and that the only potential closures would be related to works at Uppermill Viaduct (over the HNC) and in relation to Standedge Tunnel. In respect of the latter the option of nighttime working was being explored and/or carrying out the works during the formal stoppage season.

6.9 As set out in Seán McGinley’s evidence (**OBJ211/SM/1**), the Trust’s engineers consider that a full canal closure is not expected to be necessary in relation to works at height on the Uppermill Viaduct. Trust Engineers could work with Network Rail through application of the Code of Practice to find alternative ways of working.

6.10 In my opinion, the powers sought under Article 23 are more extensive than necessarily required and have the potential to significantly impact the Trust’s undertaking. For example, in terms of the power sought under Article 23(a), use of cofferdams, would be unnecessary as the authorised works do not include any works within the HNC. I have not identified any justification for this power and I do not believe it is required for delivery of the Order scheme. Furthermore, I understand that powers under Article 23(b) and (c), namely, to temporarily moor boats in the waterway for construction works and loading and unloading machinery, plant, materials etc are not required. As Network Rail has confirmed, it has no intention of using the canal to transport plant or materials etc, so would not need any barges or other craft in the waterway, (**OBJ211/TBS/3.7**).

6.11 If the Secretary of State considers any or all of the powers are justified as necessary, in my opinion, the powers should be restricted to those that are necessary and those powers should be restricted to ensure that any works do not impede the Trust’s ability to maintain and operate the waterway, especially in the event of any emergency.

Article 31 – temporary use of land for construction of work

6.12 My concerns with the powers for temporary use of land for construction work in Article 31 are reflected in the Trust’s objection letter (**OBJ211/TBS/3.1**) and SoC (**OBJ211/TBS/3.2**). As set out in Katie Hallam’s evidence (**OBJ211/KH/1**), it is still not clear in all cases of proposed temporary possessions the implications these would have for the Trust’s access rights to operate and maintain the waterway and associated infrastructure. In particular, it is not clear if the temporary use(s) sought constitute exclusive use solely for Network Rail, or shared rights which would enable the Trust continued access for operational and maintenance purposes, as well as continued access for users of the Trust’s

network: the general public, boaters and anglers. The timeframes associated with the temporary possessions are also unclear.

6.13 In light of Katie Hallam's evidence (**OBJ211/KH/1**), I do think the Trust needs to object in principle to the granting of temporary possession for certain elements of the Order scheme. If the Secretary of State considers temporary possession powers in respect of Trust interests necessary for the Order scheme, given the Trust's stated willingness to enter voluntary arrangements, the uncertainty of the Order scheme's temporary possession requirements, and the Trust's duties to ensure public benefit of the HNC, I consider it would be appropriate that the exercise of such powers should be made conditional on obtaining the Trust's consent. That consent would not be unreasonably withheld or delayed, and would be subject to arbitration provisions under Article 51 of the draft Order.

7. PROTECTIVE PROVISIONS

7.1 I consider, as set out in the Trust's objection letter (**OBJ211/TBS/3.1**) and SoC (**OBJ211/TBS/3.2**), that the protective provisions for the benefit of the Trust within the draft Order do not currently provide sufficient safeguards for the Trust's assets and interests.

7.2 Network Rail has stated that the Trust has accepted protective provisions (**OBJ211/TBS/3.6**) in the same form as currently drafted in a previous Order promoted by Network Rail (The Network Rail (Huddersfield to Westtown (Dewsbury) Order 2022 No.1067)). I worked on that matter, from early engagement to the point when the Trust withdrew its objection. The Trust objected to that Order, and made representations in respect of protective provisions offered, and was only able to withdraw its objection to that scheme after agreement was reached with Network Rail on certain matters. In addition, I am aware there are examples of Orders, in which the Trust secured protections similar to those it is here seeking from Network Rail (e.g. in terms of compulsory acquisition only with consent, see: The Network Rail Ordsall Chord Order 2015 No.780; **OBJ211/TBS/3.12**) and the A46 Newark Bypass Development Consent Order 2025 No.1090) promoted by National Highways. (**OBJ211/TBS/3.14**).

7.3 Network Rail is seeking powers for construction and maintenance of the Order scheme. As currently drafted, the protective provisions, at Part 5 of Schedule 17 to the draft Order for the Trust have application primarily to the initial construction of works and a 12 month 'snagging period'. Although paragraph 56 of the protective provisions as drafted provides that maintenance of works must be undertaken in any circumstances where Network Rail is notified that a lack of maintenance has detrimentally affected the Trust's asset, there is no proactive obligation on Network Rail to maintain any of the works which

particularly engage with Trust assets, such as Standedge Tunnel. Further, the Trust is concerned that there is nothing in the protective provisions as currently drafted that protect it similarly, i.e. beyond construction plus 12 months, in terms of, for example, plan approval under paragraph 46 or indemnity under paragraph 59. In my view, it is reasonable that the protections for the Trust within the draft Order should mirror the extent of powers sought insofar as their exercise would affect Trust assets and its statutory undertaking. As both parties are responsible for infrastructure whose lives are measured in the decades, if not the centuries, I consider certainty in respect of the impacts of longer-term maintenance can only be of benefit to both parties.

7.4 Given Peter Simpson's evidence (**OBJ211/PS/1**), it is clear to me that this is especially the case in relation to the proposed concrete relieving slab over Standedge Tunnel at the Diggle compound site, which is to be installed, we understand under the powers of temporary possession in Article 31 of the draft Order. This is referred to in Schedule 13 as "permanent canal tunnel strengthening works" but as explained by Peter Simpson in his evidence, it is currently unclear to the Trust's engineers whether the relieving slab will be left in situ following completion of the Order works and, if so, how the associated long term maintenance of the slab will be undertaken - or if it is intended that the slab be removed and, if so, what the methodology for removal will be and – in either case - how this will be secured and agreed with the Trust, given the potential detrimental impact on the historic 200 year old tunnel. Peter Simpson is clear in his evidence that if the slab is to remain in situ, the Trust requires comfort as to any longer-term monitoring of the slab which may be necessary. Additionally, and, more importantly, the engineers need certainty about how any necessary maintenance of the slab required, in compliance with the protective provisions in Schedule 17 para 56 in the draft Order, may be undertaken by Network Rail in land of which it is only taking powers of temporary possession and therefore will not be within its control. The evidence of Peter Simpson (**OBJ211/PS/1**) explains why monitoring/inspection of the relieving slab would be required.

7.5 In my view, Network Rail's Environmental Report (NR14) provides minimal consideration of potential impacts on the tunnel associated with the works. I have noted Network Rail's Statement of Case (NR30) at paragraph 7.2.2.15 onwards briefly discusses the works at Standedge Tunnel, but focusses mainly on the design development with the Trust and construction phasing. It offers very little on the potential impacts of the relieving slab on the tunnel and is silent on the point of retention and ongoing maintenance or removal and associated methodology for this.

8. CANAL & RIVER TRUST CODE OF PRACTICE

8.1 The Trust is also concerned by the potential impacts arising from the Order works not being carried out in accordance with the Trust's Code of Practice.

8.2 As set out within Seán McGinley's evidence (**OBJ211/SM/1**), the Trust's objection letter (**OBJ211/TBS/3.1**) and SoC (**OBJ211/TBS/3.2**), Network Rail's Code of Construction Practice (CoCP) Part A (NR17) simply does not address the relevant matters which the Trust's Code of Practice does. As explained by Seán McGinley, in his evidence, the Code of Practice has been the Trust's interface with external bodies since the charity was formed in 2012. Before this, British Waterways was using a similar Code of Practice for a number of decades. The Code of Practice is an intersecting set of documents, updated annually, which sets out processes and practice specific to protecting our 200 year old waterway and the idiosyncrasies and nuances associated with such infrastructure. This includes the engineering, environmental, heritage, health and safety, and other considerations required to avoid causing damage or deterioration to the network and interfering with the Trust's undertaking.

8.3 Network Rail's CoCP Part A outlines the framework for the matters to be addressed within their CoCP (Part B), to be approved by condition. The CoCP Part A outline framework does not contain any provisions for avoiding impact on the Trust's network's users during construction or maintenance of the Order scheme. Further, as referenced in the Trust's objection letter, neither the Code of Construction Practice (NR17), nor the Environment and Social Minimum Requirements for Projects – Design and Construction (NR14)), include provision for matters relating to avoiding impacts on HNC infrastructure, which is, for the most part around 200 years old and not built to modern engineering standards.

8.4 As I explained earlier, at paragraph 4.6 above, I am concerned about the potential impacts on the Trust's network of the exercise of powers within the draft Order at Article 23(1)(a) enabling temporary interference of the waterway, including the potential use of cofferdams. Network Rail's Code of Construction Practice does not include measures relating to cofferdams (unlike the Trust's Code of Practice Part 1, page 17, 18, 25 and 26 (see **OBJ211/SM/3.1**)). The implications of cofferdams include the impact reduction in water levels can have on aquatic habitats and species. The Trust is the largest owner of fish stocks in the UK and there would be a need to safely extract fish and for appropriate measures to pump out water. In my view, if Network Rail wishes to lower water levels or dewater sections of the waterway, it is imperative that it has regard to the mechanisms, including requirements, permissions and consents, as set out within the Code of Practice. Such

measures (or any equivalent) are, again, not found in Network Rail's Code of Construction Practice (NR17).

8.5 I bring to the inquiry's attention that, since The Network Rail (Huddersfield to Westtown (Dewsbury)) Order 2022 No.1067 was made, a number of development consent orders have secured protection for the benefit of the Trust, which have included reasonably-caveated application of the Code of Practice to their authorised works. These include The National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 No.393 and The A46 Newark Bypass Development Consent Order 2025 (No.1090), both for the benefit of statutory undertakers. In the case of National Grid's DCO, the protective provisions for the Trust include: – *"The Code of Practice applies to any specified work and where there is an inconsistency between these protective provisions and the Code of Practice, the part of the Code of Practice that is inconsistent with these protective provisions does not apply and these protective provisions apply"*. The Secretary of State when granting that Order accepted the provision and I consider similar wording would be appropriately included in the draft Order to address my concerns, and those of the Trust's engineers, that the Code of Practice informs the Order scheme where it interacts with the Trust's undertaking. This amendment is shown in the proposed protective provisions for the Trust **(OBJ211-TBS-3.13)**.

8.6 There are two main works proposed in the Order which directly interface with the HNC (Uppermill Viaduct (MVL3/31) and those over or in the vicinity of Standedge Tunnel (MVL3/39A). There are three areas of the Order scheme which interact with Trust assets, being the Ward Lane Feeder (Work No.9), Diggle Feeder (Work No.10) and Brunclough Feeder (MVL3/39B). If the protective provision suggested by the Trust was accepted, in relation to the Order scheme as a whole, this represents a very small proportion of the works to which the Code of Practice would apply. In light of the evidence of Peter Simpson **(OBJ211/PS/1)** it appears to me that, of those works, only works related to the installation of a relieving slab over Standedge Tunnel are likely to be of significant complexity.

8.7 In my view, most of the works noted that interface with our assets are no different to the numerous schemes that Network Rail or its contractors have successfully undertaken across the Trust's network over many years, where such works interface with the Trust's waterways (Seán's appendix OBJ211/SM/3.3). Those works have been carried out in a safe, controlled and timely manner whilst ensuring no detriment to the Trust's statutory undertaking and whilst limiting the impact on waterway users, due to compliance with the Trust's Code of Practice. I am informed by colleagues in the Trust's Infrastructure Services team that works are currently underway in relation to The Network Rail (Huddersfield to

Westtown (Dewsbury)) Order 2022 No.1067. I understand that where these interface with the Trust waterways I am not aware that the contractors have disputed nor challenged any points or requirements made by the Trust's Engineer in relation to the Trust's Code of Practice and compliance in this way with the Code of Practice has neither hindered nor frustrated Network Rail in the carrying out of authorised works. As a corollary to this, I consider that the certainty that would be brought by the Order requiring the development it authorises to comply with the Trust's Code of Practice, where that development has the potential to impact the Trust's network, brings peace of mind to both the developer, the Trust and the Secretary of State granting the Order.

8.8 As explained by Seán McGinley in his evidence (**OBJ211/SM/1**), sufficient notice of any closures of the waterway and/or towpaths enables the Trust to properly plan for the effects of the works on the Trust's network and can better manage its network for the public benefit. With sufficient notice, closures can be managed appropriately via the mechanisms in the Trust's tried and tested Code of Practice.

8.9 There are no specific references to waterway closures within Network Rail's Code of Construction Practice (NR17) nor is it addressed within the suggested draft planning conditions.

9. STRUCTURAL INTEGRITY OF THE WATERWAY (DIGGLE AND BRUNCLOUGH FEEDERS AND STANDEGE TUNNEL).

9.1 British Waterways (the predecessor of the Trust) was made a statutory consultee in the planning process in 1997, in recognition that it was not being made aware of *"a significant proportion of proposals for development which could affect the stability and integrity of waterways for which they were responsible."* Department of Environment (DoE) Chief Planning Officer 1997 (**OBJ211/TBS/3.8**). This letter sets out the types of development likely to affect these waterways including:

- *"development which involves any digging of foundations;*
- *the building of anything large which could impose a loading on the side of the waterway;*
- *any development which could create a breach in the waterway for example by increasing surface water discharges, and*
- *any major change of land use, for example a change from fields to housing."*

9.2 I consider that it is therefore imperative that the Trust is engaged, consulted and collaborated with and that our suggestions are responded to constructively in terms of the

design, construction and effects of the works which interface or have the potential to impact on the Trust's assets and infrastructure to ensure that those assets and infrastructure can be safeguarded and protected, especially those works which are proposed to be located immediately adjacent to, on and over our waterways. For proposals, such as the Order scheme, where much detail is to be determined after consent, it is important that consultation continues to properly protect the Trust's assets.

9.3 As referred to in Peter Simpson's evidence (**OBJ211/PS/1**) and Network Rail's letter to the Trust dated 4 December 2025 (**OBJ211/TBS/3.5**), Network Rail has indicated its agreement to a number of matters in relation to the concrete relieving slab and its construction. These will need to be secured via an appropriately worded condition or separate agreement between the parties and will be critical to ensure the structural integrity of our waterway. Network Rail has committed to the Trust's methodology for these works (**OBJ211/TBS/3.5**) including for the details to be subject to a Category III, independent review (**OBJ211/TBS/3.11**).

9.4 Construction work in close proximity to the HNC has the potential to adversely affect the structural integrity of the canal. The National Planning Policy Framework, December 2024 (NPPF) (**OBJ211/TBS/3.9**) is clear at paragraph 187(e) that "*decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by.....land instability.....*" and (f) "*remediating and mitigating.....unstable land, where appropriate,*". The NPPF goes on to state at paragraph 196 "*Decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks from land instability.....*" and at paragraph 197 that "*where a site is affected by land contamination or land instability issues, responsibility for securing a safe development rests with the developer and/or landowner*". Further detailed guidance on this matter is detailed within the National Planning Policy Guidance chapter on Land Stability (**OBJ211/TBS/3.10**).

9.5 The Environmental Report accompanying the Application includes information about land stability risks, but only in relation to coal mining along the route (NR14 paragraph 11.2.5). There is no assessment offered in terms of the potential impact on the structural integrity of waterway infrastructure. In my experience, if these risks are not addressed in an application for works with the potential to impact the Trust's network, they are usually addressed through the application of the Trust's Code of Practice on a site-by-site basis. Typically they would need to ensure that measures are in place to mitigate impacts on land stability and any chances of landslides. Network Rail's Code of Construction Practice (NR-17) is also silent on this point.

9.6 In his evidence, Stuart Catterall (**OBJ211/SC/1**) sets out his concerns that the Order scheme has the potential to impact the structural integrity of the culverted Diggle Feeder and Brunclough Feeder/Weir. As set out in the evidence of Adam Comerford (**OBJ211/AC/1**) the Diggle Feeder, along with Brunclough Feeder provide a critical supply of water to the canal network. Network Rail has stated that Work no.10 would have no impact on the Diggle Feeder. However, in my view it is unclear how this can be concluded given that the route/alignment of the Feeder and its proximity to Work no. 10 are unknown. As set out in my colleagues' evidence, any impact of the Order scheme on water supply to the HNC needs to be managed.

10. STREETWORKS AND TRUST OPERATIONAL REQUIREMENTS

10.1 Network Rail has indicated some commitments that it would be willing to give (**OBJ211/TBS/3.6**) in relation to the works around Standedge Tunnel and the associated impact of streetworks in its response to the Trust's objection. In my view these need to be secured in order that the Order scheme does not have (or minimises) impacts on the Trust's operations.

10.2 In particular the Trust has access requirements at Sam Road car park and associated operational requirements via the surrounding road network to ensure the safe navigation of boats through Standedge Tunnel, as referred to in the evidence of Seán McGinley (**OBJ211/SM/1**) paragraph 3.2.7 and within the Trust's Objection letter, appendix A (**OBJ211/TBS/3.1**) which will need to be secured.

11. PLANNING CONDITIONS

11.1 Without prejudice to the matters I have outlined above, the Trust would seek a requirement that it be consulted on the details relating to proposed condition 5 - the Landscape and Ecological Management Plan (LEMP) insofar as it relates to the waterway network, in order to minimise and/or mitigate impacts on the Trust's network as set out in the Trust's objection letter (**OBJ211/TBS/3.1**).

11.2 In addition, the Trust seeks a requirement that it be consulted in relation to proposed Condition 7 - Construction Traffic Management Plan (CTMP), insofar as it relates to the routing of traffic over Trust-owned bridges and especially in terms of abnormal loads and the required notification mechanism, and also if this is to include details in relation to waterway closures. This would help ensure the Trust's assets are not impacted by the Order scheme.

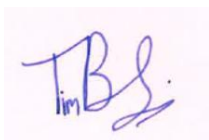
11.3 Although not included in the Request for Deemed Planning Permission (NR11) by Network Rail, I consider that a planning condition is required for a Construction and

Environment Management Plan (CEMP) to cover matters set out at paragraph 7.2 of the Trust's SoC (**OBJ211/TBS/3.2**) in relation to our waterway. Again, this would help minimise and/or mitigate impacts on the Trust's undertaking.

11.4 In addition, and if separate agreement cannot be reached with Network Rail, then I consider that commitments are required to ensure the operational requirements related to Standedge Tunnel and the shadow vehicle need to be secured via a suitably worded condition. I also consider that further planning conditions will be required to: secure the necessary protective measures related to Standedge Tunnel (para 7.3 of the SoC); carry out a dilapidation survey of Brunclough Weir; matters relating to Diggle Feeder and tracing the line of this with a CCTV survey or similar. The suggested wording for some of these suggested conditions is at section 7 of our Statement of Case (**OBJ211/TBS/3.2**) and is not duplicated here. In relation to the proposed conditions noted above, I would wish to be involved in any discussion on conditions related to these matters at the Inquiry.

I confirm that the evidence which I have prepared and provide for this inquiry is true and has been prepared and is given in accordance with the guidance of my professional institution and that the opinions expressed are my true and professional opinions.

Signed:



Tim Bettany-Simmons MRTPI

Date: 12 May 2026

SUMMARY PROOF OF EVIDENCE

of TIM BETTANY-SIMMONS

Canal & River Trust

- 1.** My evidence introduces each of the following matters:
 - 1.1. Role of the Canal & River Trust
 - 1.2. Compulsory acquisition of Trust land
 - 1.3. Powers sought under the draft Order engaging Trust assets and duties
 - 1.4. Protective Provisions
 - 1.5. Canal & River Trust Code of Practice
 - 1.6. Structural integrity of the Waterway (Diggle and Brunclough Feeders and Standedge Tunnel)
 - 1.7. Streetworks and Trust operational requirements
 - 1.8. Planning conditions

2. Role of the Canal & River Trust

- 2.1. The Trust was incorporated and registered as a charity in 2012. The functions of British Waterways Board were transferred to the Trust by the British Waterways Board (Transfer of Functions) Order 2012 (SI 2012/1659) and by way of the Waterways Infrastructure Trust. The Waterways Infrastructure Trust is the trust settled by the Secretary of State for Environment, Food and Rural Affairs by way of a trust settlement deed dated 28 June 2012, under which the Trust holds the Infrastructure Property, for amongst other things, the public benefit, for use and enjoyment including for navigation, for walking on towpaths and recreation.
- 2.2. The Order scheme runs alongside the Huddersfield Narrow Canal (HNC), for which the Trust is navigation authority. The HNC is a remainder waterway. A remainder waterway is one that is not classified as a 'commercial waterway' nor a 'cruising waterway'.
- 2.3. Under section 22 of the British Waterways Act 1995, the Trust has a duty in respect of remainder waterways. In considering any proposals relating to its functions, the Trust is to take into account the desirability of protecting remainder waterways for future use as cruising waterways, or as areas for other public recreational use.

3. Compulsory Purchase of Trust Land

- 3.1. The Trust objects to the compulsory purchase of Trust land as set out in our objection letter (**OBJ211/TBS/3.1**) and in Katie Hallam's proof of evidence (**OBJ211/KH/1**).
- 3.2. The Trust is a statutory undertaker which has specific duties to protect the waterways for the public benefit. Accordingly, it has a duty to resist the use of compulsory purchase powers which may negatively affect our land and its undertakings.
- 3.3. If the Secretary of State considers compulsory acquisition powers in respect of Trust interests are necessary for the Order scheme, they should only grant the powers if they are conditional on obtaining the Trust's consent. That consent would not be unreasonably withheld or delayed.

4. Powers sought under the draft Order engaging Trust assets and duties

Article 6 – Water Abstraction

- 4.1. The Trust is concerned that its undertaking is not sufficiently protected from potential impacts of the power sought in the draft Order (Article 6) to abstract water during construction without the need for an abstraction licence. The potential impacts of abstracting without an abstraction licence are set out in the Trust's objection letter and in greater detail in Dr Adam Comerford's proof of evidence (**OBJ211/AC/1**).
- 4.2. In light of Dr Comerford's evidence, in my view abstractions of any amount from the Trust's network should be only with the consent of the Trust.

Article 9 - powers to deviate

- 4.3. The Trust is concerned that the power to deviate has the potential to affect the Trust's undertaking at Standedge Tunnel (MVL3/39A). In my view, this power should be limited in respect of Trust assets to prevent downward deviation to protect the integrity of Standedge Tunnel and ensure continued safe passage through the tunnel.

Article 20 – discharge of water

- 4.4. Dr Comerford's evidence (**OBJ211/AC/1**) explains the internal process review for discharges to the Trust's waterways which, given the management of water resources in the Trust's network, necessarily involves careful consideration of

proposals. Therefore as a minimum, a 56-day period would be required as explained in Dr Comerford's evidence.

Article 23 – temporary closure of and works on the HNC

- 4.5. As set out within our objection letter, SoC and in Seán McGinley's evidence (**OBJ211/SM/1**) we would require that the waterway closures are planned and carried out in accordance with the Trust's Code of Practice and specifically within our annual stoppage programme, so that they can be properly planned and communicated to our customers and minimise disruption.
- 4.6. In my opinion, the powers sought under Article 23 are more extensive than necessarily required and have the potential to significantly impact the Trust's undertaking. For example, the need for the powers sought under 23(1)(a) in terms of cofferdams and (b) and (c) in terms of using the waterway for construction transportation purposes. I have not identified any justification for these powers.

Article 31 - temporary use of land for construction of work

- 4.7. As set out in Katie Hallam's evidence (**OBJ211/KH/1**), it is still not clear in all cases of temporary possession the implications this would have for the Trust's access rights to operate and maintain the waterway and associated infrastructure. If the Secretary of State considers temporary possession powers in respect of Trust interests necessary for the scheme, they should only grant the powers if those powers are conditional on obtaining the Trust's consent.

5. Protective Provisions

- 5.1. As set out in the Trust's objection letter and SoC the protective provisions for the Trust within the Order do not provide sufficient safeguards for our assets and interests.
- 5.2. The protective provisions for the Trust currently apply to the construction of works and a 12 month 'snagging period'. In my view the Trust should be protected against all potential impacts from works - both construction and maintenance - during the lifetime of the Order scheme. Given Peter Simpson's evidence (**OBJ211/PS/1**), it is clear to me that this is especially the case in relation to the proposed concrete relieving slab over Standedge Tunnel and its ongoing maintenance, monitoring and inspection if retained.

- 5.3. For completeness and to assist the inquiry we have provided a version of the Trust's preferred protective provisions at **(OBJ211/TBS/3.13)**.

6. Canal & River Trust Code of Practice

- 6.1. The Trust objects to the works not being carried out in accordance with the Trust's Code of Practice as set out in our objection letter, SoC and in Seán McGinley's evidence **(OBJ211/SM/1)**. Network Rail's Code of Construction Practice Part A (NR17) simply does not address the numerous matters which our Code of Practice does, which are specific to protecting our 200 year old waterway. As set out within my evidence their document is silent on numerous matters which are fundamental to the protection and safeguarding of our assets and infrastructure.
- 6.2. I bring to the Inquiry's attention that, since The Network Rail (Huddersfield to Westtown (Dewsbury)) Order 2022 No.1067 was made, a number of development consent orders have secured protection for the benefit of the Trust, which have included reasonably-caveated application of the Code of Practice to their authorised works.
- 6.3. In relation to the Order scheme as a whole the works that interact with Trust land represents a very small proportion of the works to which the Code of Practice would apply. In light of the evidence of Peter Simpson **(OBJ211/PS/1)** it appears to me that, only works related to the installation of a relieving slab over Standedge Tunnel are likely to be of significant complexity.
- 6.4. A separate proof of evidence has been provided by Seán McGinley **(OBJ211/SM/1)** in relation to this matter.

7. Structural integrity of the Waterway (Diggle and Brunclough Feeders and Standedge Tunnel)

- 7.1. As set out in evidence, British Waterways (predecessor to the Trust) was made a statutory consultee in the planning process in 1997 primarily to ensure that developments would not have an adverse effect on the stability and integrity of waterways. It is therefore imperative that the Trust is engaged, consulted and collaborated with and that our suggestions are responded to constructively in terms of the design, construction and effects of the works to ensure our assets and

infrastructure can be safeguarded and protected, especially those works which are immediately adjacent, on and over our waterways.

- 7.2. As set out in evidence of Dr Adam Comerford (**OBJ211/AC/1**) the Diggle and Brunclough Feeders provide a critical supply of water to the canal network which need to be managed and protected. As Stuart and Adam make clear in their evidence, any impact of the Order scheme on water supply to the HNC needs to be managed.

8. Streetworks and Trust Operational Requirements

- 8.1. Network Rail has indicated some commitments (**OBJ211/TBS/3.6**) in relation to the works around Standedge Tunnel and the associated impact of streetworks. In my view these need to be secured so that the Order scheme does not have (or minimises) impacts on the Trust's operations. In particular the Trust has access requirements at Sam Road car park and associated operational requirements via the surrounding road network to ensure the safe navigation of boats through Standedge Tunnel, as referred to in the evidence of Seán McGinley (**OBJ211/SM/1**).

9. Planning Conditions

- 9.1. Without prejudice to the matters I have outlined and as detailed in my main proof of evidence, if the Order is granted, the Trust would seek certain planning conditions to safeguard our assets and operations.