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Dear Rachael,

Transport and Works Act 1992 ("the 1992 Act")
The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the Rules")
The Acquisition of Land Act 1981 ("the 1981 Act")
The proposed Network Rail (Stalybridge to Diggle (Saddleworth) Enhancements) Order ("the Order")
Public Open Space in the County of Greater Manchester, District of Tameside

1. INTRODUCTION

- 1.1 We act for Network Rail Infrastructure Limited ('Network Rail') in connection with Network Rail's application to the Secretary of State for Transport under section 6 of the 1992 Act for the Order under sections 1 and 5 of that Act.
- 1.2 The Order seeks to confer powers on Network Rail to construct, operate and maintain works on the Transpennine line between Stalybridge and Diggle (Saddleworth), including works for the electrification of the railway between Stalybridge and Diggle (Saddleworth), in order to increase capacity and improve journey time and performance reliability of railway services on the Transpennine line between both Stalybridge and Diggle (Saddleworth) and between Manchester, Leeds and York.
- 1.3 The Order would authorise works to upgrade the operation of the existing railway between Stalybridge and Diggle (Saddleworth), including the construction of a new station at Mossley, railway electrification works and bridge reconstruction works. The Order also confers powers to close and replace existing level crossings on the railway between Stalybridge and Diggle (Saddleworth) and powers in connection with the construction and operation of the railway.
- 1.4 The Order will authorise Network Rail to acquire land, the subsoil and airspace of land, interests in land, including the imposition of restrictive covenants, and to temporarily acquire and temporarily use land for the purposes of the works authorised by the Order and the provision of railway infrastructure on the railway between Stalybridge and Diggle (Saddleworth) for which Network Rail has permitted development rights.
- 1.5 Network Rail has identified that certain land proposed to be acquired, or proposed to be subject to the acquisition of rights, being land in the County of Manchester, District of Tameside, appears to form open space or other land within the meaning of section 19(1) and (4) of the 1981 Act. The purpose of writing to you is to request certificates

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from the Secretary of State under section 19 of, or paragraph 6 of Schedule 3 to, the 1981 Act in relation to that land.

- 1.6 The Order will also authorise Network Rail to take possession of certain further open space land temporarily. The land parcels in question are included only in Schedule 13 to the Order as land of which only temporary possession may be taken. This letter does not refer to that land since the provisions of the 1981 Act do not apply.

2. THE ORDER

- 2.1 The application for the Order was made to the Secretary of State for Transport on 7th November 2025 in accordance with the Rules and was accompanied by a draft of the Order as well as a number of documents required to accompany the application under the Rules.

- 2.2 In order to assist the Secretary of State's consideration of Network Rail's request we are enclosing with the copy of this letter sent by email, copies of certain of those Order application documents as follows:

- The proposed Network Rail (Stalybridge to Diggle (Saddleworth) Enhancements) Order;
- A3 set of deposited plans and sections and the open space plan;
- The Book of Reference; and
- The Statement of Aims.

- 2.3 We should mention that copies of all of the documents accompanying the Order application as well as further information about the project can be viewed and downloaded from Network Rail's website at <https://www.networkrail.co.uk/running-the-railway/railway-upgrade-plan/key-projects/transpennine-route-upgrade/stalybridge-to-diggle-saddleworth-scheme/>.

- 2.4 Article 24(1) of the Order confers power of compulsory acquisition over land required for the purposes of the construction and maintenance of the works to be authorised by the Order.

- 2.5 Article 24(1)(b) of the Order provides for the compulsory acquisition of so much of the land specified in columns (1) and (2) of Schedule 2 to the Order (acquisition of certain lands for ancillary works), being land shown on the deposited plans and described in the book of reference, as may be required for the purpose specified in column (3) of that Schedule.

- 2.6 Article 27(2) of the Order provides that in the case of land specified in columns (1) and (2) of Schedule 9 to the Order (acquisition of new rights and imposition of restrictive covenants only) Network Rail's powers of compulsory acquisition under Article 24(1) are limited to the compulsory acquisition of such new rights and the imposition of restrictive or other covenants over land as may be required for the purposes specified in relation to the land in column (3) of that Schedule.

3. THE TRANSPORT AND WORKS ACT 1992

- 3.1 Section 12 of the 1992 Act provides:

"An order under section 1 or 3 above authorising a compulsory purchase shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 (or by virtue of paragraph 5 or 6 of Schedule 3 to that Act) (National Trust land, commons

etc), if the purchase were authorised by an Order under section 2(1) of that Act."

- 3.2 Accordingly, since the Order seeks to acquire compulsorily land and rights in land which would otherwise be subject to special parliamentary procedure Network Rail are seeking certificates under section 19 of, and paragraph 6 of Schedule 3 to, the 1981 Act.

4. **THE ACQUISITION OF LAND ACT 1981**

For the purposes of the Order, by its application under section 12 of the 1992 Act, the relevant provisions of the 1981 Act are as follows:-

4.1 *Section 19(1)(b)*

- 4.1.1 Subsection (1)(b) of section 19 provides that where the Secretary of State is satisfied:

"that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,"

the Secretary of State may certify accordingly.

- 4.1.2 The open space affected by the Order Scheme proposals, for which a certificate is sought under section 19(1)(b), is described in section 5.1 of this letter.

4.2 *Paragraph 6(1)(a) to Schedule 3 (Acquisition of Rights over Land by the Creation of New Rights)*

- 4.2.1 Paragraph 6(1)(a) provides that where the Secretary of State is satisfied:

"that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before"

the Secretary of State may certify accordingly.

- 4.2.2 The open space affected by the Order Scheme proposals, for which a certificate is sought under paragraph 6(1)(a) of Schedule 3, is described in Section 5.2 of this letter.

5. **THE OPEN SPACE AFFECTED**

5.1 **Land at Heron Lane to the north-east of the existing railway between the Stockport Level Crossing and Wright's Overbridge (MVL3/20) – land parcel numbers 10-002B and 10-012 ("the Acquisition Land")**

Description

- 5.1.1 The Acquisition Land proposed to be permanently acquired comprises a total area of 200.6 square metres and is shown on sheet 10 of the deposited plans and is shown coloured green on the Open Space Plan. It is also included in the Book of Reference (shown in the copy of the Book of Reference enclosed, listed in numerical order) at pages 270 and 280.

The Acquisition Land is within the Order limits and is listed in Schedule 2 to the Order. Its acquisition is required for the provision of railway maintenance parking area and access.

- 5.1.2 The Acquisition Land comprises a small wooded area that is located within a larger area of open space situated between the existing railway, Heron Lane and the public rights of way known as MOS/74/10 and MOS/68/10. However, due to the wooded nature of the Acquisition Land it has limited accessibility for the purposes of informal recreation. Accordingly, the acquisition of the Acquisition Land will not impact the overall recreational value of the larger area of open space within which it is situated as it represents a very small and relatively inaccessible part of that larger area of open space.

Relevant provisions of the 1981 Act

- 5.1.3 Section 19 of the 1981 Act (as applied by section 12 of the 1992 Act) would require that the Order be subject to special parliamentary procedure unless the Secretary of State is satisfied as mentioned in subsection (1) of that section and certifies accordingly.
- 5.1.4 Section 19(1)(b) of the 1981 Act provides that where the Secretary of State is satisfied:-

"that the land does not exceed 250 square yards in extent or is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,"

the Secretary of State may certify accordingly.

Certificate sought

- 5.1.5 Since the open space land comprising the Acquisition Land comprises an area less than 209 square metres (the metric equivalent of 250 square yards) in extent, and due to the relative inaccessibility of the land, Network Rail submits that the giving in exchange of other land is unnecessary in the interests of the public and requests that the Secretary of State certifies accordingly.

5.2 Land to the north-west of Heron Lane, Mossley – Land parcel number 10-007 ("Acquisition of Rights Land")

Description

- 5.2.1 The Acquisition of Rights Land proposed to be subject to the acquisition of rights and comprises 146.05 square metres and is shown on sheet 10 of the deposited plans and is shown hatched green on the Open Space Plan. It is also included in the Book of Reference (shown in the copy of the Book of Reference enclosed, listed in numerical order) at page 275. The Acquisition of Rights Land is within the Order limits but the Order does not confer any powers of outright acquisition over the Acquisition of Rights Land. Instead the powers of acquisition conferred by the Order over the Acquisition of Rights Land are limited to the acquisition of rights for the construction and maintenance of a vehicular passing bay, with such new rights to be exercised in common with all rights, trusts and incidents to which the land was previously subject.

- 5.2.2 The Acquisition of Rights Land comprises a small wooded area, immediately adjacent to Heron Lane and public right of way MOS/74/10. It forms part of a larger area of open space situated between the existing railway, Heron Lane and the public rights of way known as MOS/74/10 and MOS/68/10. As access to this larger area of open space is not provided through the Acquisition of Rights Land, but instead is provided via public right of way MOS/69/20, the acquisition of the proposed rights would not impact access to, or the recreational use of, this larger area of open space. In addition, due to the current wooded nature of the Acquisition of Rights Land it has limited accessibility and so limited recreational value for users of the larger area of open space, therefore the acquisition of the proposed rights, and provision of a vehicular passing bay, would not render the use of the Acquisition of Rights Land (and in turn the larger area of open space) any less advantageous to the public.

Relevant provisions of the 1981 Act

- 5.2.3 Paragraph 6 to Schedule 3 of the 1981 Act rights (as applied by section 12 of the 1992 Act) would require that the Order be subject to special parliamentary procedure unless the Secretary of State is satisfied as mentioned in sub-paragraphs (1)(a) to (c) of that paragraph and certifies accordingly. Paragraph 6(1)(a) provides that where the Secretary of State is satisfied that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and any other persons entitled to rights of common or other rights, and to the public than it was before, he may certify accordingly.

Certificate sought

- 5.2.4 The Secretary of State is requested to certify that the land when burdened with the proposed rights for the provision of a vehicular passing bay will be no less advantageous to the persons mentioned in paragraph 6(1)(a) of Schedule 3 to the 1981 Act.

6. PROCEDURE UNDER THE 1981 ACT

- 6.1 Section 19(2) of, and paragraph 6(3) of Schedule 3 to, the 1981 Act provide that where it is proposed to give a certificate under those provisions, the Secretary of State shall direct the acquiring authority to give public notice of the Secretary of State intention to do so. Section 19(2A) of, and paragraph 6(3A) of Schedule 3 to, the 1981 Act provide that the notice required to be given shall be given in such form and manner as the Secretary of State may direct.
- 6.2 Should the Secretary of State be minded to grant the certificates which are sought by Network Rail, we should be grateful to receive the Secretary of State's direction under the above-mentioned provisions of the 1981 Act.
- 6.3 The above-mentioned provisions also require that before giving a certificate, the Secretary of State must afford to all persons interested an opportunity to make representations and objections and to cause a public inquiry to be held in any case where it appears to the Secretary of State to be expedient to do so having regard to any representations or objections made.

7. PROCEDURE UNDER THE 1992 ACT

- 7.1 The objection period for the Order will expire on Friday 19 December and it is probable that it will be necessary for the Secretary of State for Transport to cause an inquiry to be held in relation to the Order application which, in that event, would be likely to be held in June 2026. You may therefore wish to liaise with Rachel Dominey at the Transport Infrastructure Planning Unit, Department for Transport, Zone 1/14-

18, Great Minster House, 33 Horseferry Road, London SW1P 4DR (telephone: 07815 453 887) and email (transportinfrastructure@dft.gov.uk) . Network Rail would wish any objections or representations in relation to its application for certificates under the 1981 Act to be dealt with at the same inquiry.

We should be grateful if you would please acknowledge safe receipt of this letter and its enclosures and let us know whether you require any further information at this stage.

We look forward to hearing from you.

Yours faithfully

Eversheds Sutherland (International) LLP

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cc: Transport and Works Act Orders Unit (letter only - by email).