

Date: 30th March 2023

Dear Tamzin,

Notice of Dispute TTP 2191 Network Rail Submission

Below is a detailed chronology of events compiled by Network Rail (NR) in response to GB Railfreight's (GBRf) dispute TTP2191. This chronology is then followed by brief comments which relate to the GBRf submission made on 23rd March 2023. NR agree that the subject of this dispute is P2022/3429981.

Summary of events:

- 23/10/21: Original possession footprint (number P2022/3429981) created and published in version 1 of EAS.
- 20/06/22: Footprint amended to extend the possession from 16 -26 days and issued.
- 15/02/2023: RMT announced Industrial Action (IA) to commence on the 16th March from 02:00 until 01:59 17th March and Action Short of Strike (ASOS) for both Operations & Maintenance colleagues over a period of 6 weeks. P2023/3429981 (Stalybridge blockade) commenced at 00:30 11th March for a total of 26 days.
- 23/02/2023: Transpennine Route Upgrade (TRU) programme after the IA was announced revisited the haulage plan as the strike would cause significant issues to the original plan, the option for taking additional access between Ashton Moss Nth Jn – Baguley Fold would mitigate and allow 4 engineering trains to depart Basford Hall early and be stabled in the revised possession footprint to safeguard the programme to work. Operations would not be able to guarantee staff would take duty at Basford Hall / Denton and along the Stockport corridor, these locations did not feature previously in the routes Key Route Strategy (KRS). The timings of the additional access coincided with staff being on duty before IA commenced and they would be working as normal during their rostered shifts.
- 24/02/2023: 09:35 E-mail to GBRf from NR: *"IA has been planned for 16/03 ... impact upon the Stalybridge Blockade. Currently, this train (6E36) has a VAR route through Northenden / Ashton Moss towards Drax, however TRU are planning to extend the access through Ashton Moss to read "Baguley Fold to Ashton Moss 0345 THU to 0730 FRI (vice 0110 to 0510 FRI) – this would impact the VAR route leaving the only available route via Man Vic / Calder, which may be an issue due to the weight of the train. Can you advise if, firstly, this train will run on this day due to the IA, and secondly, if it does run, could it run earlier to pass Ashton Moss before 0345?"*
- 24/02/2023 10:45 Email from GBRf to NR: *"If the trains on Thursday and Friday can run, they will. There will be no alteration to this service, we will be keeping the times we have thanks, if TRU want to block Baguley Fold to Ashton Moss 0345 THU to 0730 FRI (vice 0110 to 0510 FRI). I'm not agreeing any further disruption to our services."* (Option refused 70 minutes later by GBRf)
- 24/02/2023: 10:52 Feedback from GBRf advised to TRU.
- 24/02/2023: Network Rail requested the additional access via a Disruptive Access Form (DAF) DAF5022-241325. Request issued at 14:23 on 24th Feb and a request for comments back by 2nd March to allow publication in WON 50 EAP Reference: LNWN22-1240 Week 50 with the following remarks *"LNW North EAP publish the below REQUEST to extend part of the disruptive access in connection with the Stalybridge blockade. As a result of planned Industrial Action, we have had to re-assess the plan for engineering trains getting to site. Therefore, we are requesting that the section of line between Baguley Fold Jn and Ashton Moss North Jn be blocked 0345 THU (after the passage of 6H47) to 0730 FRI (vice 0110 to 0510 FRI) to allow for the stacking of the trains. Please note: Once this access is agreed, it will not be possible to give back, regardless of whether the Industrial Action is cancelled, due to the complexity of track layout and signalling disconnections associated with the blockade. This will leave Manchester Victoria / Calder Valley as the only available route for traffic. Also, due to the proximity of this possession, we are requesting a curtailed response of COP Thursday 2nd March, in order to get this into the WON and to ensure that all works packs are updated in good time. If you have any questions, please contact names provided.*
- Having discussed internally with various departments of NR / TRU Directorate / SCO / Route Planning / Route Operations it was not possible to reverse the alteration Typically 12 days before IA WTT services are cancelled and operators are consulted. This in effect creates 'white space' on the graph with no automatic right for re-instatement of services under Part D as capacity cannot be reserved in that manner.
- 27/02/2023 @ 11:00 Freight Access Working Group (FAWG) chaired by TRU held. GBRf were invited, did not attend but were aware of the proposal.

- 27/02/2023: 14:47 E-mail from GBRf to NR. "As per my previous comments, GBRf are not in a position to agree further late notice possession that impact our services further at short notice owing to the additional risk to our services these changes will bring."
- 02/03/2023 response deadline as set by NR under Condition D3.5.
- 02/03/2023 Formal decision issued by NR to all operators including GBRf.
- 03/03/2023 Weekly Operating Notice (WON) The official notice referred to in Rules and Regulations for giving details of: B - Engineering arrangements, intention to provide full visibility for all parties, this gave the TRU programme information to review at the final safety / methodology project briefing event held on the 08/03/23 to approximately 200 participants, in addition it confirmed the footprint for the Picop safety brief held 09:30 09/03/23.
- 07/03/2023: IA Cancelled.
- 08/03/23: 24 hours after IA cancellation, services were planned around the possession and offered back. TT planning confirmed services would be as per KRS strategy via Miles Platting / Calder valley. GBRf did not dispute the offer.
- 08/03/2023: TRU programme asked to review the possibility of reverting back to the original possession footprint (pre IA being announced) this was refused on the grounds of safety as briefing had already been held to over 200 staff, Safe work packs (SWP) were already created and being issued as the possession was due to commence on the 11/03/2023 @ 00:30.
- 08/03/2023: GBRf write to ADC providing Notice of Dispute.
- 09/03/2023: Thursday Picop brief held at 09:30.
- 09/03/2023: @ 11:36 (5 working days after the decision was issued and just 37hrs before the possession was due to start) request received from GBRf to review the possibility of introducing Single Line Working (SLW) over the Up Ashton Moss line to allow a number of their services a route preventing the need to *bank* via Miles Platting.
- 09/03/2023: Discussed options internally with NR Operations and owing to the distance required and complexity involved (only 1 cross over available), it would not be possible to introduce without causing significant disruption to the train plan (additional time required to brief each service over the SLW section) and remove critical resources from the Calder Valley route which was already the diversionary alternative being used. (Email available to support).
- 09/03/2023: Further conversations with TRU to amend the footprint with a view to allow some of the GBRf services to run via the Up Ashton line. Plan formulated on same day – conversation with GBRf (Tom Mainprize via telephone – email evidence available) who agreed in principle and request confirmation by 18:00hrs. 16:00 same day, teams call with TRU and AMEY who declined on grounds of safety. (Email available).
- 09/03/2023: NR advised GBRf at 16:40 that the amended plan was not support by TRU / Amey principal sponsor (rationale email available) NW RD advised and updated GBRf
- 13/03/2023: FAWG meeting held GBRf attended and notes available re comments, alteration already in place for 16/17/03/2023.
- 15/03/2023: Email received from GBRf asking for access to be removed. Possession already commenced and extension was planned for less than 24hrs.

Network Rail note that the issues that are raised within the GBRF summary submission relate to the disruptive nature of what is being deemed 'Late Notice Change' including allegations of Network Rail taking a 'cavalier' attitude to disruptive blocks as well as "making decisions impacting our business when they have no right to do so". Network Rail takes issue with this and submits that the above chronology demonstrates compliance with Network Code Part D in relation to the application of Conditions D3.5 and D3.4 as well as meeting the requirements for consultation as laid out in D8.6. It is also noted that whilst GBRf are not happy with the decision Network Rail has made, they are not alleging any breaches of the Network Code nor that there has been an incorrect application of D4.6.

GBRf are suggesting that written guidance be provided to allow something akin to a veto on possessions (reducing the impact or stopping the blocks altogether). In relation to this request (assumed to be under Condition D5.3.1(a)), Network Rail submit that any development of a formal process in this respect sits outside the remit of a TTP Hearing but would like to understand ADC's position in relation to this matter as well. The Network Code itself constitutes the formal process and governance in relation to Timetable Participants right to bring a dispute for any decisions made by Network Rail and Part C of the Code details the process to be followed if any Timetable Participant wishes to propose a change.

NAME Andy Briggs

JOB TITLE Head of Planning NW Route

SIGNATURE

