

1 DETAILS OF PARTIES

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

(a) GB Railfreight Limited ("GBRf") whose Registered Office is at 3rd Floor,
55 Old Broad Street, London, EC2M 1RX; and

(b) Network Rail Infrastructure Limited ("NR") whose Registered Office is at
1 Eversholt Street, London, NW1 2DN.

1.2 Third parties to this dispute may include Freightliner Group Ltd, DB Cargo, Direct Rail Services, Cross Country Trains, LNER, Trans Pennine Express, Northern Rail.

2 THE CLAIMANT'S RIGHT TO BRING THIS REFERENCE

Please note there are three matters that are being referred to a Timetabling Panel ("the Panel") for determination in accordance with Conditions D2.2.8 and D.5 of the Network Code and each matter has multiple possessions contained within it. Each of the subject matters brought to the Panel for determination is in relation to Network Rails failure to comply with and apply D2.2.6, making its decision set out in D4.1 and failure to supply a fully applied Decision Criteria. Network Rail has made its decision without being fully informed about the impact on operators, customers and capacity. It is on these grounds that GB Railfreight believes Network Rail has breached its Track Access Contract.

The first subject matter of this dispute relate to possessions referenced "Eye of the Needle", in which there are currently X10 instances of these in the 2025 Access plan. Network Rail has declared that it will not ensure the requested relevant Severity 4" Timetable Study will be produced in regard to "Eye of the Needle" Restriction of Use published in the EAS version 2 Decision Publication. Upgrade (TRU) [Appendix 5.1]. Possessions in question are:

Possession 3939339 Week 52.

Possession 3983004 Week 08 and Published in Section 4 period E.

Possession 3983103 Week 09 and Published in Section 4 period E.

Possession 3983104 Week 10 and Published in Section 4 period E.

Possession 3983105 Week 11 and Published in Section 4 period E.

Possession 3983106 Week 12 and Published in Section 4 period E.

Possession 3985315 Week 19.

Possession 3987375 Week 20.

Possession 3987378 Week 21.

Possession 3988272 Week 24.

The second subject matter of this dispute relate to a series of conflicting possessions that impact GB Railfreight and its customers in which Network Rail have no intention of de-conflicting. In total there are 21 full weekends, 2 half weekends and a 30 day blockade [Appendix 5.1] throughout 2025 conflicting possessions are:

LNW Possession 3920859 Week 04 conflict with LNE Possession 3977885 and Period D in Section 4.

LNW Possessions 3922699 and 3922695 Week 16 conflict with LNE possession 3985314.

LNW Possessions 3922700 and 3922771 Week 17 conflict with LNE possession 3985296.

LNW Possession 3922701 Week 18 conflict with LNE possession 3985297.

LNW Possession 3922702 Week 19 conflict with LNE possession 3985315.

LNW Possession 3923455 Week 23 conflict with LNE possession 3930836.

The third subject matter of this dispute relate to a series of blocks that prevent GB Railfreight operating a service at all.

The Chinley 9 day blockade prevents us running a services out of all three major Buxton quarries meaning we are unable to provide a service to X3 of our customers as there is no diversionary route available. This possession is:

Possession 3922610 Week 13.

There are a series of X4 East Coast Mainline (ECML) in the Autumn during our customer's high burn period. The location of the blocks mean we have no diversionary route available. GB Railfreight appreciate there is a need to carry out work, however we need this to happen when the service level is more manageable with our customer. These possessions are:

Possession 3902001 week 31.

Possession 3902007 week 32.

Possession 3909910 week 33.

Possession 3902942 week 34.

3 CONTENTS OF REFERENCE

This Sole Reference includes: -

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

4 SUBJECT MATTER OF DISPUTE

- 4.1 TTP2404 refers to separate sets of engineering access blocks. Sections 4.2 -4.11 cover "Eye of the Needle Blocks", Sections 4.12 - 4.18 cover "Conflict of Blocks" and 4.19 - 4.23 cover "Complete Blocks".
- 4.2 The first subject matter is in relation to "Eye of the Needle Blocks", which there are a total of ten instances in the 2025 planning year [Appendix 5.1]. Over many years, there has been many discussions about what criteria to meet when delivering the TRU project, GB Railfreight have taken part in these discussions to advise what our requirements are [Appendices 2.1, 5.2]. This was to ensure minimum disruption to the service when delivering this project, as both passenger and freight operators, having customers to serve during disruption caused by this long term project.
- 4.3 The whole project has been plagued with change over the years in some shape or form [Appendix 5.3] and has been subject of continuous consultation with operators and usually past the strategic timescales (2 years and beyond) often radically changed. It is

also fair to say the number of resources Network Rail are committing to this project that it is difficult for operators to be completely engaged with the different teams within Network Rail.

- 4.4 The subject matter was first included in the 2025 EAS Version 1 publication [Appendices 4.1, 4.1.2] and GB Railfreight responded to this [Appendix 4.2] on the 1st December 2023, stating the need for a Timetable Study in line with Severity 4 of the Impact Matrix [Appendix 4.5].
- 4.5 On the 19th December 2023 almost 3 weeks after our 2025 EAS Version 1 response, Network Rail sent out Plan B and requesting operator responses [Appendix 2.2], GB Railfreight responded to this on the 16th January 2024 [Appendix 2.3] advising Network Rail of the number of trains and tonnages affected by the plan.
- 4.6 From the Version 1 response to Version 2, and with GB Railfreight responses being submitted on 1st December 2024 and the Version 2 publication on 09th February 2024, there has been no meeting to specifically deal with the operator requirements of the series of Eye of the Needle blocks. The possessions in question were published as Section 7 disruptive weekends as well as Section 4 period E, meaning that we would have to bid our services via the working timetable process (WTT) at between D55 and D-40 [Appendix 4.6] in accordance with Network Code D2.
- 4.7 On the 15th January 2024, GB Railfreight attended a monthly meeting called Freight Access Working Group (FAWG) meeting, where again the matter of the issues around Eye of the Needle blocks had been raised. On this meeting as a separate item, Network Rail presented Plan B [Appendix 5.1]. Network Rail advised that Plan B would be published in the next EAS publication (Version 2), as a result undoing a lot of the work that operators had put into Version 1. It is worth noting that Plan B is an alternative plan to delivering the TRU project with an Eye of the Needle blockades originally planned in 2025, 2026 and 2027 to more weekends and X1 blockade in 2027.
- 4.8 The original plan had already been subject to consultation with affected operators and gone through the strategic plan process. Network Rail has now moved the Eye of the Needle blockade to 2027, and added a significant amount of weekends for years to come and without any commitment to factor in the considerations that had already been discussed. For all Eye of the Needle blocks there would be a requirement to

deliver a timetable study to understand the service level we could deliver as well as the deconfliction of other routes when blocking the Huddersfield route for TRU.

- 4.9** On the 23rd January 2024, GB Railfreight attended a Version 1 response meeting with Network Rail and other operators. GB Railfreight strongly advised all the issues around the blocks that had been published in EAS Version that delivered TRU. GB Railfreight advised at the time that there were a significant amount of blocks in Version 1 (Section 4 and Section 7) that had clashes with other routes and that there was no intention by Network Rail to deliver a Timetable study. This was based on earlier discussions in a monthly (FAWG) meeting.
- 4.10** On the 23rd February 2024 GB Railfreight responded to notes that had been sent out by Network Rail following the FAWG meeting dated 12th February 2024. GB Railfreight received a response from Network Rail on the same day, which is in essence telling GB Railfreight what it is expected to do [Appendices 2.4, 2.4.1, 2.4.2]. This in turn advises GB Railfreight that Network Rail has already made its Decision before following any process. GB Railfreight believe the Network Rail response captures the tone of some of these meetings and the firm stance Network Rail are taking when it comes to discussing issues surrounding affected services around Restriction of Use possessions. Network Rail are firmly not providing any assurances in the provision of diversionary routes or supporting timetable studies, therefore we are left with a considerable amount of uncertainty.
- 4.11** EAS Version 2 was received on 09th February 2024, as advised by Network Rail, Plan B had been published, GB Railfreight responded to the subject matters in line with what we had already advised Network Rail prior to this publication [Appendices 4.3, 4.3.1]. On the back of this version GB Railfreight submitted its Notice of Dispute to 2025 EAS Version 2 [Appendix 1.1] with the view to expediting selected Restriction of Use items that were completely unacceptable owing to the significant risk and uncertainty that would be put on GB Railfreight and its customers.
- 4.12** The second subject matter was first included in the 2025 EAS Version 1 publication [Appendix 4.1, 4.1.1, 4.1.2] and GB Railfreight responded to this [Appendices 4.2, 4.2.2] on the 1st December 2023, stating the conflicts of possessions in weeks 04, 16, 17, 18, 19, 23 and the need for a reasonable diversionary route to be provided. If the

diversionary route via Huddersfield was made available there would be a need for a Timetable study. The subject matter is also in relation to TRU.

- 4.13 From the Version 1 response to Version 2, and with GB Railfreight responses being submitted on 1st December 2024 and the Version 2 publication on 09th February 2024 there has been no meeting to specifically deal with the operator requirements of the series of conflicts of possessions. The possessions in question were published as Section 7 disruptive weekend blocks. On these weeks GB Railfreight would have to bid its train service variations around the Restriction of Use. There are also Section 4 publications, meaning that we would have to bid our services via the WTT process.
- 4.14 On the 15th January 2024 GB Railfreight attended a FAWG meeting, where again the matter of the issues around the conflict of blocks on the Huddersfield route with the blocks on LNW had been raised. On this meeting as a separate item, Network Rail advised that on the weeks the Huddersfield was blocked the Calder Valley route had been made available and therefore the deconfliction was achieved. Network Rail added that we did have access to the Calder Valley via Manchester Victoria and Miles Platting and that we were choosing not to use this route. This was not actually true. In earlier discussions, GB Railfreight believe this route had been exhausted as a possible option owing to the operational, resource and capacity constraints.
- 4.15 On the 23rd January 2024 GB Railfreight attended a 2025 EAS Version 1 response meeting with Network Rail and other operators. GB Railfreight strongly advised all the issues around the conflict of blocks published in EAS Version 1 that delivered TRU. GB Railfreight advised at the time that there were a significant amount of blocks published in Version 1 (Section 4 and Section 7) clashing with possessions on the LNW route. GB Railfreight advised that based on previous FAWG meetings there was no intention that Network Rail was going to remove the access on the Huddersfield route and therefore clashing possessions remain.
- 4.16 As per 4.8 the subject had already been subject to earlier consultation with affected operators and gone through the strategic plan process. Our advice to Network Rail was to avoid blocks on the LNW area (namely NW1001 and 3023), when the Huddersfield route was blocked, this was to avoid blocking both available routes over the Pennines [Appendix 3.2].

- 4.17 On the 23rd February 2024 GB Railfreight responded to notes (Please refer to section 4.10).
- 4.18** EAS Version 2 was received on 09th February 2024, GB Railfreight responded to the subject matters in line with what we had already advised Network Rail prior to this publication [Appendices 4.3, 4.3.1, 4.3.2]. On the back of this version GB Railfreight submitted its Notice of Dispute to 2025 EAS Version 2 [Appendices 4.4, 4.4.2, 1.1] with the view to expediting selected Restriction of Use items that were completely unacceptable owing to the significant risk and uncertainty that would be put on GB Railfreight and its customers.
- 4.19** The third subject matter was first included in the 2025 EAS Version 1 publication [Appendix 4.1] and GB Railfreight responded to this [Appendix 4.2] on the 1st December 2023, Possession 3922610 (Week 13) relates to a blockade at Chinley meaning we are not able to serve our customers for X10 days and possessions 3902001 week 31, 3902007 week 32, 3909910 week 33, 3902942 week 34 relate to X4 consecutive weekends of the ECML being blocked, meaning we are not able to serve our customer at Drax Power Station during their high burn period, Network Rail are aware of this [Appendix 5.4].
- 4.20 In regard to the Chinley blockade there has been little discussion about the project. On the 05th October 2023 GB Railfreight attended a structures meeting, the matter was not discussed. GB Railfreight requested this to be discussed on future meetings but this has not been the case, nor have we had any visibility of optioneering to deliver this piece of work.
- 4.21 In the access published in Version 2, Network Rail has made a decision about this delivery, completely disregarding the impact to our customers and our business [Appendix 4.4.1, 4.4.2].
- 4.22 In regard to the ECML weekend blocks, the subject had been previously discussed in FAWG meetings but not captured in the notes. There had been clashes identified between LNW and these LNE blocks affecting the same customer.
- 4.23 GB Railfreight attended a meeting held on the 21st of March to discuss the possibilities of a change to the overall delivery of some of the work between Doncaster and

Newcastle. In terms of the weekends GB Railfreight has brought to the hearing there has been little movement, the blocks will still be during the Autumn period and these have been published in 2025 EAS Version 3. GB Railfreight advised these would be acceptable with supporting Timetable studies for diverted services in the months between May and September, therefore 2026 would be the next opportunity to deliver this work less disruptively but there seemed to be little appetite to look at/consider this?

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

- 5.1 TTP2404 "Eye of the Needle" and conflict of blocks TRU related - GB Railfreight has not had any of its concerns accommodated. Network Rail has not applied the requirements that we had set Network Rail to deliver the work around. Introducing Plan B late into the EAS development process, Network Rail are in essence dismissing any of the criteria that had been requested of them, and set about its own plan.
- 5.2 The timing of this change and lack of commitment to deliver Timetable Studies will mean that we are unable to give any assurances to our customers. The fact that GB Railfreight are unable to advise what we can deliver during the published disruption will have reputational consequence on our company. Our customers have a right to know what level of service they will receive, in a similar way to that of a passenger travelling on the rail network. One of our customers, as an example, is managing the supply of fuel from countries around the world, with the UK rail link being the last line of its particular supply chain.
- 5.3 Our customer at Drax Power Station has advised GB Railfreight of its concerns regarding the matters raised in this dispute [Appendix]. In addition, the notes from every FAWG meeting have included comments and preferences from Drax Power concerning the diversion options for its trains: , "we require a 75% capacity via a diversionary route".
- 5.4 Regarding service specifics for the "Eye of the Needle" blocks and conflicting blocks, GB Railfreight currently has a known total of X10 loaded Biomass services and their return empty services impacted by each weekend, meaning a total of 100 services in 2025. Each train will haul 1675 tonnes of fuel (167,500 tonnes for all ten weekends).

- 5.5 For the weekends where there are clashes of possessions we have a total of X10 services in week 04; with the remaining five Sunday only weekends we have a total of X20 loaded services and their return workings. This equates to a total of 50,250 tonnes of fuel we are unable to deliver. GB Railfreight received a letter of concern from Drax [Appendix 5.5]
- 5.6 With regard to Hope Valley diversions, these are supported with a Timetable Study so that we are able to understand the level of service we can give our customer.
- 5.7 There is no evidence from Network Rail that it has considered the impact of the diversions for freight. Additionally, the determination of TTP1704 found that it was *"difficult to understand how Network Rail could have considered its application of the Decision Criteria to have been fully informed without the required Capacity Study having been completed"* (Paragraph 72).
- 5.8 For the blockade, we have the following flows we are unable to run: Cemex – Bletchley X5 services affected 8,200t(est), Hope St (Manchester) X1 service 1,700t(est), Leeds Stourton we have X9 loaded services 15,300t(est) ,Selby Potter Group x2 services 3,400t(est), Small Heath we have 5 services 8,500t(est), Luton X1 service 1,700t(est). GRS/RSS Banbury x14 services 22,400t, Small Heath X7 services 11,200t, Washwood Heath X6 services 9,600t, Hams Hall X12 services 19,200t. GB Railfreight have a total 62 services we are not able to run amounting to a loss of 101,200 tonnes for the duration of this blockade.
- 5.9 Railfreight is facing significant threats to its business through competition with road hauliers in various sectors. Rail is perceived to have uncertainty, late notice service cancellation and rigidity which are frequently sighted as major reasons for modal shift from rail to road. Given the amount of tonnage of aggregate requiring hauling during the time of the restriction of use, there would be a clear breach of road movement limits in and out of the Peak Forest quarries. There are no viable contingency options to explore for GB Railfreight to continue to serve its customers during the published Restriction of Use.
- 5.10 Network Rail has not listened and carried on regardless.

- 5.11 Concerning the 'double blocking' on London North Western and London North Eastern routes, Network Rail argues that when it has blocked the Huddersfield route that it has also provided a diversionary route on the Calder Valley, thus de-conflicting the possessions.. Network Rail has not considered GB Railfreight's requirements. , By not applying D4.6 (The Decision Criteria), Network Rail cannot be fully informed when making its decision(s) regarding possessions and diversionary requirements.
- 5.12 GB Railfreight asserts that Network Rail has failed to consider the commercial impact of its customer in this instance. The determination of TTP1704 directed Network Rail towards the ORR determination of TTP102 – "Network Rail should be reminded of the need to understand the commercial interests of its customers, which appears not to have been the case here. The ORR's Determination of TTP102 is a useful tool for possession planners. Within possession planning Network Rail is reminded of the need to follow the provisions of the National Timetable Planning Rules, especially 6.1.1.". It is apparent to GB Railfreight that Network Rail has not done so before reaching its decisions in relation to these matter.

6 DECISION SOUGHT FROM THE PANEL

- 6.1 The Claimant is requesting that the Panel determine that:
- (a) Network Rail is in breach of its Track Access Contract as it has failed to carry out its duties as stated in the National Timetable Planning Rules and the Network Code..
 - (b) Network Rail be directed to publish a Timetable Study to support all the Restrictions of Use that have an "Eye of the Needle" footprint.
 - (c) Network Rail is to withdraw the Restrictions of Use concerning the complete blocks in Week 13 Chinley blockade and LNE weekend blocks in weeks 29, 30, 31 and 32.
 - (d) Network Rail is instructed to deconflict the possessions in the Restrictions of Use identified in this paper and provide a reasonable diversionary route for the possessions identified in weeks 04, 16 to 19 and 23.
 - (e) If Network Rail is found to be in breach of contract, GB Railfreight be awarded costs and damages arising.

7 APPENDICES

1 Dispute Notices

1.1 GB Railfreight Notice of Dispute – 2025 EAS Version 2

2 E-mails

2.1 Advice to Network Rail of our requirements dated 28/04/2020

2.2 Network Rail email requesting response to plan B.

2.3 GB Railfreight response to Plan B.

2.4 FAWG notes meeting dated 12/02/2024.

2.4.1 GB Railfreight response to FAWG notes.

2.4.2 Network Rail response to GB Railfreight comments.

3 Maps

3.1 Eye of the Needle map

3.2 Huddersfield block with LNW

4 Network Rail Publication

4.1 2025 EAS Version 1 LNE Section 7 publication

4.1.1 2025 Version 1 LNW Section 7 publication

4.1.2 2025 Version 1 LNE Section 4 publication

4.2 2025 EAS Version 1 LNE North East GB Railfreight Response.

4.2.1 LNE East Coast Version 1 Response

4.2.2 LNW Version 1 Response

4.3 2025 EAS Version 2 LNE Section 7 publication

4.3.1 LNE Version 2 Section 4 Publication

4.3.2 LNW Version 2 Section 7 Publication

4.4 2025 EAS Version 2 GB Railfreight LNE Section 7 and Section 4 Response

4.4.1 Version 2 LNE East Coast Section 7 Response

4.4.2 Version 2 LNW Section 7 Response

4.5 Engineering Impact Matrix

4.6 Timetable Development Timeline

5 GB Railfreight Documents

5.1 Plan B

5.2 Requirements spreadsheet

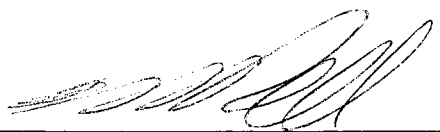
5.3 Change control log

5.4 Drax preferences

5.5 Drax letter regarding disruption.

8 SIGNATURE

For and on behalf of GB Railfreight Limited

A handwritten signature in black ink, appearing to read 'Darren Pell', written over a horizontal line.

Signed

Darren Pell
Engineering Access Manager