**Network Rail Defence Document – Appendix E**

**Extract from ORR Determination from TTP1174**

Paragraph 91

“ORR considers that the provisions of the Network Code envisage that there will be circumstances where Network Rail may not achieve the Objective by including all requested Train Slots in the WTT, even where there are no conflicts with other proposals or the Rules (or with the applicable International Freight Capacity Notice or Exercised Firm Rights). This might include where requested Train Slots would, if accepted in the WTT, give rise to a clear and substantial safety or performance 67 Condition D4.6 25 concern. In such a situation, Network Rail would in the first instance be required to consider whether to exercise its Flexing Right and should only allocate Train Slots in the prescribed order of priority in Condition D4.2.2(d) (and ultimately reject one or more requested Train Slots) to the extent that it is unable to vary requested Train Slots in a manner which will achieve the Objective (and will lead to a WTT which is consistent with the principles in Conditions D4.2.2(a) and D4.2.2(b)).”