

28 March 2019

Company Secretary  
Network Rail Infrastructure Limited  
1 Eversholt Street  
London  
NW1 2DN

### **Network Rail's network licence, financial ring-fence condition: property-related activities**

1. In a notice to Network Rail dated 29 September 2015, the Office of Rail and Road (ORR) gave its consent under the financial ring-fence condition of the network licence<sup>1</sup> to Network Rail carrying out property related activities subject to the conditions in that notice. That consent will expire on 31 March 2019.
2. We have reviewed the form of the consent and its financial restrictions and consider that it is appropriate to issue this consent. This consent does not constitute an approval for any particular property scheme or expenditure.
3. ORR, having regard to its duties under Section 4 of the Railways Act and to the information supplied by Network Rail, consents for the purpose of condition 16.1(c) of the Network Licence to Network Rail carrying out property-related activities in accordance with the conditions set out below.
4. Network Rail will apply appropriate internal governance controls with sufficient financial and risk assurance arrangements to ensure engagement in any property related activities under this consent:
  - (a) is conducted efficiently and effectively;
  - (b) does not unduly detract from or otherwise adversely impact on Network Rail's ability, including resources, to deliver its outputs and requirements for Control Period 6; and
  - (c) is consistent with its licensed activities under, and the conditions of, the Network Licence.
6. This consent is valid from 1 April 2019 to 31 March 2024 or such longer period as ORR may specify in a notice given in writing to Network Rail.
7. ORR may modify or revoke this consent at any time in a notice given in writing to Network Rail if it appears to ORR requisite or expedient to do so having regard to the duties imposed on ORR by section 4 of the Railways Act.

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<sup>1</sup> From 1 April 2019, this will be Condition 16 in Network Rail's network licence.

## Definitions

8. In this consent —

"commercial estate"	means property and land in the ownership of Network Rail which is not used for its Permitted Business, does not fall within Part 1 of this consent and in the reasonable opinion of Network Rail is capable of disposal in accordance with its Network Licence.
"Control Period 6"	means the five year period which runs from 1 April 2019 to 31 March 2024.
"disposal"	includes any sale, assignment, gift, lease, licence, the grant of any right of possession, loan, security, mortgage, charge or the grant of any other encumbrance or knowingly permitting any encumbrance to subsist (other than an encumbrance subsisting on the date when the land was acquired by the licence holder on 15 November 2001) or any other disposition to a third party, and "dispose" shall be construed accordingly.
"enabling works"	<p>means all works required for the purposes of facilitating, supporting or assisting the construction, development or refurbishment of a building including but not limited to:</p> <ul style="list-style-type: none"> <li>(a) civil engineering works, including but not limited to roads and bridge works;</li> <li>(b) the erection of hoardings (including other necessary measures to provide site safety and security);</li> <li>(c) intrusive site surveys and investigations;</li> <li>(d) the provision of utility supplies and drainage;</li> <li>(e) demolishing of existing structures and the clearing and preparation of ground only;</li> <li>(f) removal of contamination and ground remediation (including Japanese knotweed);</li> <li>(g) asset protection works where the railway undertaking interfaces with a development site;</li> <li>(h) supporting and constructing foundations; and</li> <li>(i) rafting over railway infrastructure including but not limited to stations and railway tracks.</li> </ul>
"land"	includes buildings and other structures, land covered by water and any estate, interest, easements, servitudes or rights in or over land.
"Network Licence"	means the licence granted to Railtrack PLC by the Secretary of State for Transport on 31 March 1994, as modified from time to time.
"Network Rail"	means Network Rail Infrastructure Limited.
"miscellaneous commercial opportunities"	means a low risk opportunity to generate benefit to Network Rail from its existing land and property such as through advertising,

product promotions, guided tours, filming, telecommunication masts, payphone rights and mobile charging.

"Permitted Business" has the same meaning as given to it under the Network Licence.

"Property-related activities" means the oversight, control, operation and acquisition and disposal of property or land including activities that are not wholly ancillary to, or incidental to, Permitted Business.

"the Railways Act" means the Railways Act 1993 (as amended by the Railways Act 2005 and as further amended from time to time).

9. Terms and expressions defined in the Railways Act or Network Licence shall, unless the contrary intention appears, have the same meanings in this consent.

10. References in this consent to station, freight sidings/facilities or light maintenance depots shall include part or parts thereof and any facility thereto.

### **Part 1 - Property-related activities concerning the Permitted Business**

11. Network Rail may conduct and carry on the following property-related activities where such activity is intended to facilitate, or is conducive or incidental to, the performance of its Permitted Business subject to condition 17 (*Land Disposal*) of the Network Licence:

- (a) the acquisition of estates, rights and interests in relation to land or property;
- (b) the letting or otherwise granting rights or interests (including but not limited to, licences, easements, wayleaves, advertising or other similar concessions) in land or property;
- (c) the provision, operation, maintenance, improvement, renewal, replacement, refurbishment or enhancement, of any station, freight sidings/facilities or light maintenance depots or such other buildings and facilities owned by Network Rail and used for performance of its Permitted Business;
- (d) supporting the provision of an extension to the network;
- (e) permitting any land or property comprised in a station to be used primarily for the purpose of the provision or operation of a station;
- (f) permitting any land or property comprised in a light maintenance depot to be used primarily for the purpose of the provision or operation of light maintenance depot services;
- (g) permitting any land or property comprised in a rail freight depot or siding(s) to be used primarily for the purpose of the provision or operation of rail freight; and
- (h) providing property and management services to support the activities referred to above.

### **Part 2 - Commercial estate activities**

12. Network Rail may conduct and carry on the following property-related activities in relation to its commercial estate subject to condition 17 of the Network Licence:

- (a) letting or otherwise granting rights or interests (including, but not limited to, licences, easements, wayleaves, advertising or other similar concessions);
- (b) management;
- (c) maintenance;

- (d) renewal;
- (e) replacement
- (f) refurbishment; and
- (g) non-physical works and services (together with site surveys, remediation, erecting, removing or maintaining hoarding, site clearance and other similar activities intended to protect integrity of the land or property) necessary for the preparation and support of the potential and/or actual disposal of land.

### **Part 3 - Miscellaneous commercial opportunities**

13. Network Rail may conduct and carry on the following property-related activities subject to condition 17 of the Network Licence:

managing and exploiting miscellaneous commercial opportunities on land used for the performance of its Permitted Business and on its commercial estate provided there is no interference with the Permitted Business.

### **Part 4 - Acquisition, enabling works and enhancement activities**

14. In respect of property-related activity not covered by Parts 1 and 2 of this consent, Network Rail may conduct and carry on the following property-related activities:

- (a) acquisition of estates, rights and interests in relation to land where such acquisition is directly related to and for the purpose of facilitating or supporting a potential freehold sale, or long-term lease, of land which Network Rail reasonably contemplates shall be subject to a forthcoming application and consent under condition 17 of the Network Licence;
- (b) enabling works for the purposes of future development on land which Network Rail reasonably contemplates shall be subject to a forthcoming application and consent for a freehold sale or long-term lease under condition 17 of the Network Licence; and
- (c) enhancement of Network Rail's then existing land and property portfolio (but not for the purposes of future development) together with associated enabling works.

15. In **England and Wales**, unless otherwise expressly agreed by ORR, the activities conducted or carried out under paragraph 14 are subject to the following limitations:

- (a) no more than £295million (in 2018-19 prices) shall be expended in aggregate for all activities between 1 April 2019 and 31 March 2024.

16. In **Scotland**, unless otherwise expressly agreed by ORR, the activities conducted or carried out under paragraph 14 are subject to the following limitations:

- (a) no more than £15million (in 2018-19 prices) shall be expended in aggregate for all activities between 1 April 2019 and 31 March 2024.

**Carl Hetherington**

**Duly authorised by the Office of Rail and Road**