

Les Waters
Head of Licensing
Email: [REDACTED]



Company Secretary
Network Rail Infrastructure Limited
Waterloo General Office
London
SE1 8SW

28 January 2025

Network licence Condition 16 (*Financial ring-fence*): Construction of a railway connection for Sizewell C Limited

Decision

1. On 16 December 2024, Network Rail applied for consent, pursuant to Condition 16 (*Financial ring-fence*) of its network licence, to carry out design, construction and assurance activities for a new railway connection for Sizewell C Limited, who would pay Network Rail for the costs involved. The application is attached at Annex A.
2. We have considered the information supplied by Network Rail and, for the purposes of Condition 16.1(c) of its network licence, the Office of Rail and Road (“ORR”) consents to the proposals as set out by Network Rail in its application.
3. Our consent under paragraph 2 above is subject to the condition that:

the total cost to the licence holder must not exceed £12.5m for its work in designing, constructing and assuring the new railway connection, unless we consent otherwise.

Reasons for decision

Background

4. The purpose of the financial ring-fence licence condition is to restrict Network Rail’s ability to divert its resources, or to allow them to be diverted, to activities that are not Permitted Business (as defined in Part II of Network Rail’s network licence). Network Rail must gain our consent if it wishes to resource any activity that is not categorised as Permitted Business, unless the level of resource is sufficiently low that it can be conducted as a De Minimis activity, as defined in Conditions 16.3-16.5.
5. Network Rail’s design and construction of signalling and rail systems for a new spur – approximately three miles in length off the existing Sizewell branch line – and to include the provision of two new level crossings, would not constitute Permitted Business as it would not become part of Network Rail’s network. In addition, Network Rail would provide supporting services for an assurance role in relation to the construction of track and related infrastructure work carried out by Sizewell C Limited – for which Network Rail also requested consent since those services, not being for its own network, would also not be categorised as Permitted Business.

6. Network Rail considers that the total cost of its non-core activities should be less than £12.5m and has requested our consent to carry out the work, subject to its costs not exceeding that amount.

7. Network Rail's application also anticipated that it is to request an additional Condition 16 consent for the operation and maintenance of the new spur, to last for the duration of the power station's estimated ten-year construction period. Network Rail has estimated that the costs involved should be between £0.5m-£1m per year. Network Rail asked us to confirm that we would not rule out such a request.

8. We note Network Rail's intention and we confirm that we would consider such an application, once received.

Consideration of this application

9. In considering the application we have borne in mind three overarching factors:

- a) foreseeable financial risks arising from the proposal;
- b) whether the proposed activities would be likely to affect the operation of the Network Rail's network; and
- c) whether Network Rail's activities will raise any competition issues.

10. With regard to (a), we note that Network Rail and Sizewell C Limited have drawn up an Implementation Agreement – we have been provided a redacted copy – which limits Network Rail's financial liability. The agreement also provides that Network Rail can recover its costs from Sizewell C Limited on a periodic billing basis, i.e. every 28 days. As at July 2024, Sizewell C Limited is 76.1% Government-owned, so we have no concerns that Network Rail would be unable to recover its spend. We also note that the Implementation Agreement allows Network Rail to require Sizewell C Limited to issue a bond to Network Rail to recover its expenditure, should Government shareholding fall below 50.01%.

11. We have also been provided with a near-final copy of the "Off-Network Assurance Services Agreement" (the "ASA"), between Network Rail and Sizewell C Limited, for the assurance services to be provided by Network Rail. The copy of the ASA we have seen limits Network Rail's financial liability in relation to those services.

12. Given the arrangements in place that will limit Network Rail's financial liability for all the work it is to undertake, and on the basis that the terms of the ASA will not change materially, we have no concerns to pursue under (a). For completeness, we require Network Rail to send to us a signed copy of the ASA once it is entered into.

13. We have no concerns with respect to (b). We note that Network Rail has undertaken a timetable and performance assessment following the introduction of the expected new freight traffic flows and that it forecasts no significant issues with regard to the operation of the railway, providing that the recommendations and next steps in Network Rail's assessment are executed. Network Rail has further

confirmed that the work required can be delivered without compromising its ability to carry out its core duties.

14. With regard to (c), on the basis of the information we have received from Network Rail, its proposed activities do not raise issues that we need to address.

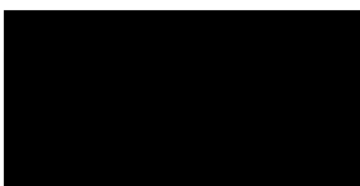
15. On the basis of Network Rail's proposals and in the absence of any significant issues, consent to Network Rail's application is appropriate. However, to mitigate against any additional financial liability arising, we consider that it is appropriate to attach a condition to our consent that will limit Network Rail's expenditure to £12.5m on its proposed activities that are not Permitted Business.

16. In reaching our decision we have given particular weight to our duty to exercise our functions in a manner which we consider best calculated to "protect the interests of users of railway services".

17. This consent is valid from this day until 31 December 2028, or such longer period as ORR may specify in a notice given in writing to Network Rail.

18. ORR may modify or revoke this consent at any time on reasonable notice given in writing to Network Rail if it appears to ORR requisite or expedient to do so.

X



28/01/2025

Les Waters

Head of Licensing

Signed by: S-1-12-1-966673442-1316586399-15867803-3367161311/6cf3732f-04be-44fd-8530-4edcf25f8629

Duly authorised by the Office of Rail and Road



Les Waters
Head of Licensing
Office and Rail and Road
25 Cabot Square
London

(Sent by email)

16 December 2024

Network Rail Infrastructure Limited
The Quadrant
Elder Gate
Milton Keynes

Email: [redacted]

Dear Les,

Specific consent under Licence Condition 16 for Network Rail to support Sizewell C construction

Summary

1. Network Rail is supporting [Sizewell C Limited](#) (“the Customer”) to improve rail links to the site of a new nuclear power station in Suffolk. Sizewell C is a private company currently funded by the Department for Energy Security and Net Zero.
2. These improvements will reduce the number of lorry movements required during the construction phase. The work will include upgrades to the existing Network and the construction of a new branch line. Network Rail has been asked to carry out some of the work involved in constructing this new branch line, and to operate and maintain it. All work will be funded by the Customer, covering all Network Rail costs associated with the delivery of the project.
3. As the new branch line is not currently, and will not become, ‘Network’ as defined by the Network Licence, we are seeking specific consent from ORR under Licence Condition 16 to engage in asset assurance and construction activity. We are not seeking consent at this stage for operation and maintenance activity.

Background

4. The rail works include the upgrade of the Sizewell Branch line, which is part of the existing Network, and the construction of a new piece of rail infrastructure called the Green Rail Route (Kenton Spur) – see Appendix for details. This is a new piece of railway which comes off the branch line. Separately, work is being done in two private sidings (ACA and TCA as labelled in the Appendix); Network Rail has no involvement in the work to these sidings.
5. The Customer would like Network Rail to operate and maintain (subject to contract) this new Green Rail Route for the duration of the construction of Sizewell C, which is

expected to take around ten years. We have also been asked to install the signalling system and two new level crossings. Another party will deliver the permanent way work.

6. This Green Rail Route is temporary, and will not become part of the Network. After the expected ten-year construction phase, the plan is for it to be removed and the land made good and given back to the landowner. At no point will Network Rail own the land.
7. Network Rail has been asked to design and deliver the systems and level crossings on the Green Rail Route and asset assure the civils and track works which the Customer are delivering themselves. This will provide compatibility between our Network and the Customer's infrastructure.

Costs

8. The value of the Green Rail Route construction work that we will carry out is currently estimated at around £7m, although this may change as the project is further developed. Costs incurred by Network Rail will be recovered from the Customer as incurred on a periodic basis.
9. The Customer will fund the detailed design and delivery of works for both the existing Network and the new Green Rail Route through an implementation agreement; a redacted version has been shared with you for reference.
10. All Off Network Works we are delivering will include a 10% fee.
11. The estimated operation and maintenance costs over the c.10 years are expected to be in the range of £0.5m - £1m pa (£5m - £10m in total.) This would similarly be recovered from the Customer, plus a 10% fee and would be subject to a separate consent from ORR at a future date.

Risks and liabilities

12. Network Rail's liability for the Off-Network Works is limited to the 'Off-Network Works Network Rail Cap' as defined in clause 1.1 of the Implementation Agreement, but for illustrative purposes it is expected to be a sum equivalent to £508,823.60 linked directly to the Off-Network Works fee.
13. The customer is majority funded by the Department for Energy Security and Net Zero. If this was to change to less than 50.1% through the duration of the works then within the Agreements we're entering into, Network Rail has the right to request a bond at the value of the works at that time.
14. The Customer is paying for a number of upgrades to level crossings on the ESK (East Suffolk line) and Sizewell Branch line via separate agreements to facilitate the additional train movements. These upgrades and the impact on safety are subject to normal process, and do not form part of this request for consent.

15. An assessment had been carried out of the resources required which has confirmed that with the third-party funding, this work can be delivered without compromising our ability to carry out our Core Duties as defined in the Network Licence. Furthermore, it supports our freight growth target.

Performance impact

16. We undertook a performance assessment of the introduction of the new freight flows. This found no significant performance detriment. Please note however that the bidding for paths will follow the normal process as required under the Network Code once the Customer has sourced an appropriate freight operator and is in a position to bid for the necessary paths.

Regulatory considerations

17. The upgrades to the existing Network have been assessed as being Permitted Business (as defined in the Network Licence.)
18. As the new Green Rail Route is not, and will not become part of Network Rail's network, the works on this line are not assessed as being Permitted Business.
19. It is the intention of both the Customer and Network Rail that Network Rail should assume operational and maintenance responsibilities for the new Green Rail Route once construction has been completed. Much further on in the future, it is our joint intention that the Customer will pay Network Rail to remove the new Green Rail Route (subject to future contract). It is therefore not deemed appropriate at this stage to request consent for these activities.
20. Our proposal is therefore to take a phased approach to consent.

Timescales

21. Timescales are still be developed, but currently are anticipated as follows:

Activity	Current expected date
Network Rail and the Customer sign implementation agreement	Complete - Sept 2024
Specific consent given by ORR to carry out detailed design and construct the new Green Rail Route	Dec 2024
Network Rail confirm ORR consent received to allow construction phase to begin	Jan 2025
Construction begins	February 2025
Specific consent request for operation and maintenance of new Green Rail Route	June 2025
Operation of new Green Rail Route commences	April 2026

Our request

22. We request the following:

- a. Specific consent from ORR to permit Network Rail to carry out the detailed design and construction of the new Green Rail Route at a cost (which will be recovered) of no more than £11m¹ and to asset assure the track and civils element the Customer is delivering at a cost (which will be recovered) of no more than £1.5m
- b. Confirmation that at this point in time, ORR currently see no reason why Network Rail should not be permitted to operate and maintain the new Green Rail Route as Infrastructure Manager, although this will be subject to a future specific request consent.

Yours sincerely,

Michael Chu

Head of Regulatory Compliance & Reporting

On behalf of Network Rail Infrastructure Limited

¹ This covers the £7m current estimate, plus contingency and liability cap as per the Implementation Agreement

Appendix

Saxmundham Junction:

Non systems (track & civils) scope associated with upgrade of Saxmundham Junction, incl:

- Renewal of existing connection from ESK to SIZ branch line.
- Installation of new powered crossover

New Green Rail Route:

Track & Civils scope associated with construction of GRR & TCA, incl:

- Temporary railway to connect the SIZ branch line to TCA railhead (freight unloading facility & concrete batching plant)
- Installation of 2Nr new level crossings

Saxmundham to Leiston (SIZ) branch line:

Non systems (track & civils) scope associated with upgrade of SIZ branchline, incl:

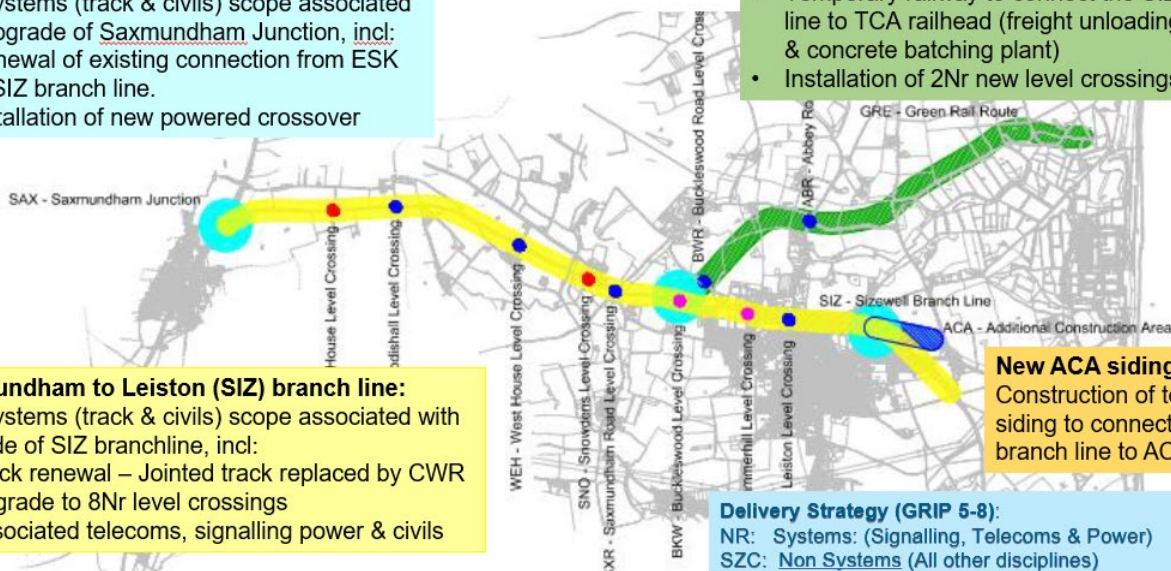
- Track renewal – Jointed track replaced by CWR
- Upgrade to 8Nr level crossings
- Associated telecoms, signalling power & civils

New ACA siding (CS1):

Construction of temporary siding to connect the SIZ branch line to ACA

Delivery Strategy (GRIP 5-8):

NR: Systems: (Signalling, Telecoms & Power)
SZC: Non Systems (All other disciplines)



Acronyms

ACA	Ancillary Construction Area
CWR	Continuously Welded Rail
ESK	East Suffolk line
GRR	Green Rail Route
SIZ	Sizewell Branch line
TCA	Temporary Construction Area
SZC	Sizewell C