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Tel:

Office of Rail and Road  
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By Email and Post

21 November 2017

Dear Sirs

## **NOTICE OF APPEAL UNDER PART M OF THE NETWORK CODE (TTP1174)**

### **1 NOTICE OF APPEAL**

- 1.1. Under Condition 5.2.1 of Part D of the Network Code, Network Rail Infrastructure Limited (the **Appellant**, referred to as **NRIL** in this notice of appeal) is serving this notice of appeal in relation to paragraphs 8.1.1 and 8.1.5 of the determination of the Timetabling Panel of the Access Disputes Committee dated 14 November and served on 15 November 2017 (the **Determination**) in respect of TTP1174.
- 1.2. This notice constitutes NRIL's complete Notice of Appeal in accordance with Condition 3.1.1 of Part M of the Network Code (the **Notice of Appeal**).
- 1.3. Unless otherwise defined, the terms used herein adopt the definitions provided under the Network Code (the **Code**).
- 1.4. The evidence in support of this Notice of Appeal, comprising a (1) copy of the Determination of TTP1174 with Annexes A to D (including the submissions made therein by NRIL, and the other Dispute Parties); and (2) a copy of the Determination of TTP1122, is attached to this Notice of Appeal.

### **2 SUMMARY**

- 2.1. NRIL wishes to appeal paragraphs 8.1.1, and 8.1.5 of the Determination, and the words "*if the same were applicable*" in the second line of paragraph 8.1.2 of the Determination. These paragraphs provided as follows:

- "8.1.1 *As a matter of legal entitlement: the meaning of the relevant provisions of Part D of the Network Code (12 July 2017 Edition), particularly Condition D4 'Decisions by Network Rail', is that Network Rail does not have the power or the right to apply the Decision Criteria in the abstract, generally on its own initiative or for whatever motive, to any part of the process of compiling a New Working Timetable; nor, in the context of compiling a New Working Timetable, to exercise its Flexing Right – or apply the Decision Criteria to the exercise of a Flexing Right – unless it is required to make a decision regarding acceptance of an Access Proposal or Rolled Over Access Proposal because it conflicts with another Access Proposal or Rolled Over Access Proposal or gives rise to an irresolvable conflict with the Timetable Planning Rules for the time being in force; and*
- 8.1.2 *"As a matter of legal entitlement: Network Rail's application of the Decision Criteria in Condition D4.6, **if the same were applicable**, as recorded in its document (undated) produced to XC on 15 September 2017...." (wording subject to appeal in bold and underlined)*
- [8.1.5 *As a matter of legal entitlement: under the Network Code as presently constituted and incorporated in Timetable Participants' Track Access Contracts, NR is not entitled to reject an otherwise contractually valid and compliant Access Proposal or Rolled Over Access Proposal otherwise than in accordance with the relevant provisions of the Network Code for the time being in force". ]*
- 2.2. NRIL believes that paragraphs 8.1.1 and 8.1.5 of the Determination are wrong for the reasons set out in detail below, and summarised as follows:
- 2.2.1. NRIL clearly has the power to make decisions when compiling the WTT, and the provisions of Condition D4.2.2 do not constrain this power when compiling the WTT to be used only where there are conflicts between Access Proposals; and
- 2.2.2. if left as it is the Determination will create a precedent which is likely to have a significant detrimental impact on the operation of Part D of the Code as it will operate to prevent NRIL from achieving the Objective set under Condition D4.6.1.
- 2.3. The Notice of Appeal therefore raises matters which are important to the operation of the rail industry as a whole.
- 2.4. NRIL as the Appellant therefore asks the ORR:
- 2.4.1. to hear an appeal in respect of paragraphs 8.1.1 and 8.1.5; and
- 2.4.2. to remove paragraphs 8.1.1 and 8.1.5 from the Determination.

### **3 FACTS AND BACKGROUND**

#### **(A) Previous Determination: TTP1122**

- 3.1. The Determination arose out of an earlier determination, TTP1122.
- 3.2. TTP1122 arose out of an appeal by XC Trains Limited (**XC**) against NRIL's award for the December 2017 Working Timetable (**WTT**). XC had submitted a Rolled Over Access Proposal for that WTT, in relation to seven existing XC train services into Glasgow Central.

Abellio Scotrail Ltd (**ASR**) had also submitted a Rolled Over Access Proposal for that WTT. As these were Rolled Over Access Proposals, XC and ASR therefore did not seek any variation to the existing WTT.

- 3.3. NR decided, as part of the Bi-Annual WTT Revision Process under Part D, that XC's services should be swapped over with those of ASR, so that a regular 30 minute interval could be provided on local services from Lanark to Glasgow Central, these services being operated by ASR. The XC services therefore followed those of ASR. XC and ASR had not sought this change.
- 3.4. XC notified a dispute, and a Timetabling Panel hearing number TTP1122 was heard on 8 September 2017 by Hearing Chair John Hewitt sitting with members appointed from the Timetabling Pool. The Parties to TTP1122 were NRIL, XC and ASR.
- 3.5. Having heard submissions, the Hearing Chair for TTP1122 directed NRIL to reconsider its decisions in respect of each of the seven trains, taking into account information provided to date and further information to be provided as a result of the Hearing Chair's direction. NRIL was to notify its further decision by 15 September 2017
- 3.6. During the course of TTP1122, XC challenged NRIL's power or entitlement to make unilateral decisions regarding the structure of the WTT. This is dealt with at paragraph 6.9 of the TTP1122 determination. XC submitted that the opening of Condition D4.6 began with the phrase "*Where [NRIL] is required to decide any matter...*", and said that no decision was "*required*" because XC and ASR had not sought the change, so there were no competing Access Proposals before NRIL. NRIL submitted that its power was not limited to resolving conflicts, but extended to NRIL's decisions to achieve the Objective set out in Condition D4.6.1. NRIL was exercising its Flexing Rights under Condition 4.2.2 (c).
- 3.7. The panel in TTP1122 noted that the definition of Flexing Right in D1.1.11 permitted NRIL "*to use its Flexing Right in respect of Rolled Over Access Proposals*", which ASR and XC had both submitted. The determination for TTP1122 then stated "*Neither this definition nor the provisions of Condition 4.2.2 (c) constrain [NRIL's] use of its Flexing Right when compiling the New [WTT] to be used only where there are conflicts between Access Proposals.*"
- 3.8. The determination in TTP1122 concluded paragraph 6.9 by stating, "*Having carefully considered the relevant provisions of the [Code] Part D and the proper interpretation of the words used, the Panel prefers and adopts the submissions made on behalf of [NRIL] on this point*".
- 3.9. As will be seen below, NRIL submits that this is the proper interpretation of this point.

**(B) The relevant parts of the Determination: TTP1174**

- 3.10. NRIL followed the direction given by TTP1122, and issued a reconsidered timetabling award on 15 September 2017. NRIL arrived at the same decision as before, so that the XC services into Glasgow were still retimed after those for ASR.
- 3.11. XC notified a further dispute. A new panel was appointed, with Peter Barber being appointed to sit as Hearing Chair, with a different panel. This is TTP1174, and is the subject of this Notice of Appeal. The hearing took place on 11 and 31 October 2017. The Determination was issued by email on 14 November 2017 at 18:30, so is treated as being

issued on Wednesday 15 November 2017 under paragraph 21(d) of Chapter A of the Access Dispute Resolution Rules.

- 3.12. In paragraph 2.5 the Determination noted that the dispute raised "*...issues of specific contract interpretation relating to the appropriate methodology for applying the rules in Condition D4.2 governing [NRIL's] timetabling decisions and particularly its application of the Decision Criteria.*" The Hearing Chair identified this issue at paragraph 5.4 of the Determination as follows: "*...the extent, if any, to which [NRIL] is entitled, in compiling the [WTT] to make a decision on its own initiative rejecting or changing (by exercising a Flexing Right) some aspect of an Access Proposal generally by reference to the Decision Criteria, when no "decision" as such strictly needs to be made because there is no conflict with another Access Proposal or other specific overriding obstacle.*"
- 3.13. NR's submissions on this point in response to the Panel's questions regarding it are summarised at paragraphs 5.6 to 5.10 of the Determination. The Hearing Chair said, as recorded in paragraph 5.13, that "*...the Panel was still minded to conclude that as a matter of principle there was no entitlement for NR to use its Flexing Right or apply the Decision Criteria in a vacuum, which was to say, without there being a decision required upon which to hook such an entitlement.*"
- 3.14. The Hearing Chair's analysis and consideration of this issue is set out at paragraphs 6.4 to 6.7 of the Determination, under the heading "*Applicability of Decision Criteria*".
- 3.15. In paragraph 6.4, the Hearing Chair concluded that "*.....the relevant provisions of Part D of the [Code] does not give NR the right to make such a decision in the abstract on its own initiative, even for what it considers to be improvements to the [WTT] or other general industry benefit purposes, nor do the Decision Criteria (including the Objective as well as the Considerations) by themselves give NR such a right.*" The Hearing Chair noted that in saying this he was "*...conscious of departing from the finding of TTP1122 on this point.*" The Hearing Chair's reasoning is set out in detail at paragraph 6.4.1, 6.4.2 and 6.4.3. This argues as follows. The Hearing Chair notes that the preamble at the start of Condition 4.2.2 requires NRIL to "*endeavour wherever possible to comply with all Access Proposals submitted to it...and accommodate all Rolled Over Access Proposals subject to, among other things, [NRIL] being entitled to exercise its Flexing Right under Condition 4.2.2 (c) .*" He claims that this (paragraph 6.4.2) "*...gives rise to a specific duty expressed in the Condition 4.2.2 preamble to accept an Access Proposal or accommodate a Rolled Over Access Proposal wherever possible. For that duty to be in any way meaningful, the entitlement to which it is subject, to exercise NRIL's Flexing Right under D4.2.2 (c), must be intended to apply only if or to the extent necessary to enable it to perform such a duty, that is to say, to make possible the acceptance or accommodation of an Access Proposal that would otherwise be impossible.*"
- 3.16. He then goes on to note that Condition D4 deals with the various different kinds of decisions that NRIL has to make under Part D, including the Timetable Planning Rules, Engineering Access Statement, the WTT, Train Operator Variations and Network Rail Variations to the WTT, and Possession Strategy Notices. In the case of the WTT, he concludes that this can only "*...sensibly refer to a decision which is compatible with, or necessary to enable it to discharge, [NRIL's] other duties or obligations under Condition D4.2, including the need to resolve a conflict between Access Proposals or between an Access Proposal and some other technically supervening matter such as the [Timetable*

*Planning Rules], in a situation where without such resolution NR would otherwise be unable to discharge the overriding duty laid down in the Condition 4.2.2 preamble".*

3.17. He then concludes in paragraph 6.5 as follows: *"...Network Rail under the Network Code does not have the power or the right to apply the Decision Criteria in the abstract, generally on its own initiative, to any part of the process of compiling the Timetable; nor, at least in the context of the facts of this dispute, to exercise its Flexing Right – or apply the Decision Criteria to the exercise of a Flexing Right – unless there is an actual decision to be made on accepting an Access Proposal or Rolled Over Access Proposal because it conflicts with another Access Proposal or Rolled Over Access Proposal.... Where there was no such conflict – as was the case here – I therefore decided that the need or entitlement to exercise a Flexing Right on an otherwise unconflicted Access Proposal did not arise."*

3.18. On 15 November 2017, the Determination was issued. In the Determination, the Panel found that:

3.18.1. *As a matter of legal entitlement: the meaning of the relevant provisions of Part D of the Network Code (12 July 2017 Edition), particularly Condition D4 'Decisions by Network Rail', is that Network Rail does not have the power or the right to apply the Decision Criteria in the abstract, generally on its own initiative or for whatever motive, to any part of the process of compiling a New Working Timetable; nor, in the context of compiling a New Working Timetable, to exercise its Flexing Right – or apply the Decision Criteria to the exercise of a Flexing Right – unless it is required to make a decision regarding acceptance of an Access Proposal or Rolled Over Access Proposal because it conflicts with another Access Proposal or Rolled Over Access Proposal or gives rise to an irresolvable conflict with the Timetable Planning Rules for the time being in force (paragraph 8.1.1); and*

3.18.2. *As a matter of legal entitlement: under the Network Code as presently constituted and incorporated in Timetable Participants' Track Access Contracts, NR is not entitled to reject an otherwise contractually valid and compliant Access Proposal or Rolled Over Access Proposal otherwise than in accordance with the relevant provisions of the Network Code for the time being in force" (paragraph 8.1.5)*

3.19. The Determination also includes a number of comments at sections 7, headed "Guidance and observations", which are critical of the manner in which NRIL applies the Decision Criteria in other contexts. These comments claim that NRIL has gone outside the ambit of what is permitted by the Code and the Track Access Agreements between NRIL and the relevant Train Operating Companies.

3.20. In fact, as explained below, NRIL can act entirely within its contractual entitlement in making a decision about a change concerning the WTT, including where a Train Operating Company has not sought such a change. Accordingly, there is no question of NRIL acting beyond what is permitted by the Code and the relevant Track Access Agreements.

#### **4 GROUNDS OF APPEAL**

**Importance to the industry: Determination is wrong because NRIL has the power to make decisions when compiling the WTT, and the provisions of Condition D4.2.2 do not constrain this power when compiling the WTT to be used only where there are conflicts between Access Proposals**

- 4.1. The Determination is wrong in law because the Hearing Chair has misconstrued the relevant provisions of Part D. The proper interpretation of the relevant provisions are those preferred in TTP1122.
- 4.2. The main issue is when NRIL can apply the Decision Criteria set out in Condition D4.6. D4.6.1 provides that "*Where [NRIL] is required to decide any matter in this Part D its objective shall be....*" (underlining added). The Objective to be achieved by NRIL is then set out. This Objective is therefore to be achieved whenever NRIL is "*required to decide any matter in this Part D*". This is very widely drafted, and therefore includes "*any*" matter to be decided by NRIL under Part D. There is no express definition of a "*decision*", or what to "*decide any matter*" within Part D might involve. One must therefore look to the provisions of Part D as a whole in order to construe this.
- 4.3. The introduction to Part D includes an "Overview" of Part D. This includes two express obligations on NRIL, as follows:
  - 4.3.1. Condition 1.1.1 "*It is the responsibility of [NRIL] to establish a timetable for the Network, referred to as the "Working Timetable"*"; and
  - 4.3.2. Condition 1.1.5 "*In conducting the processes set out in this Part, decisions must be made by [NRIL] in accordance with the principles set out in Condition D4*".
- 4.4. These are clear obligations on NRIL. NRIL must establish the WTT, because it has an express responsibility to do so. It "*must*" also follow the "principles" set out in Condition D4 in conducting the processes set out in Part D.
- 4.5. Condition D4 describes five situations where NRIL makes decisions: the Timetable Planning Rules (D4.1), the preparation of a New Working Timetable (D4.2), decisions concerning variations by Train Operators and NRIL respectively (D4.3 and D4.4), and decisions concerning Possessions Strategy Notices (D4.5).
- 4.6. The bi-annual WTT revision process is set out in Condition D2. This includes timetable preparation, which is dealt with in Condition D2.6. This requires under Condition D2.6.1 that "*During the Timetable Preparation Period... [NRIL] **shall compile** the proposed New Working Timetable*" (emphasis added). NRIL must then give Timetable Participants access to the evolving draft of the WTT and consult with them in respect of their Access Proposals (these being submitted by Timetable Participants under Conditions D2.4 and D2.5). Condition D2.6.1 does not define, constrain or specify the nature of any decisions which NRIL must make in connection with compiling the WTT. NRIL must simply "compile" the WTT, give access to Timetable Participants, and consult.
- 4.7. Decisions arising in the preparation of a WTT are set out in Condition D4.2. Condition D4.2.1 first sets out a general obligation on NRIL in preparing the WTT, "*In compiling a New Working Timetable in accordance with Condition D2.6, [NRIL] shall apply the Decision Criteria in accordance with Condition D4.6 and conduct itself as set out in this Condition D4.2*".
- 4.8. Importantly, Condition D4.2.1 does not specify or constrain the circumstances in which NRIL actually makes decisions concerning the WTT. As noted above, NRIL's compilation of the WTT is also not constrained. Provided that NRIL applies the Decision Criteria, and conducts itself as set out in D4.2, NRIL can make decisions concerning any matter regarding the compilation of the WTT.

- 4.9. What is described as the "preamble" to Condition D4.2.2 is relied upon heavily in the Determination. This states: "*[NRIL] shall endeavour wherever possible to comply with all Access Proposals submitted to it in accordance with D2.4 and D2.5 and accommodate all Rolled Over Access Proposals, subject to the following principles...*"
- 4.10. The words used are that NRIL must "*endeavour wherever possible*" to accommodate Access Proposals. This does not mean, because it simply does not say, that NRIL can only make decisions about the WTT when Access Proposals have been submitted and are in conflict. As shown above, NRIL is required to compile a WTT, to give access to Timetable Participants to the WTT and to consult with them in respect of their Access Proposals.
- 4.11. To construct a rigid requirement that NRIL can only make decisions about the WTT when there are conflicting Access Proposals is to write into Part D words which are not present.
- 4.12. Furthermore, Condition 4.2.2 is expressly subject to principles which are set out in it. NRIL must "*endeavour to comply*" with Access Proposals, subject to these principles. These include Condition 4.2.2(c), which states, "*in compiling a New Working Timetable, [NRIL] is entitled to exercise its Flexing Right*".
- 4.13. A Flexing Right is defined in Part D as "*a right, exercisable by [NRIL] in allocating a Train Slot in the New Working Timetable, to vary a Train Slot: (a) sought in an Access Proposal; or (b) arising from a Rolled Over Access Proposal; or (c) sought in a Train Operator Variation Request, in any way within and consistent with the Exercised Firm Rights of the Relevant Timetable Participant....*"
- 4.14. This definition does not say that NRIL has to slavishly follow what is in an Access Proposal. The right is to "*vary a Train Slot*". This means that NRIL can vary any Train Slot which is sought in an Access Proposal, so NRIL can vary what is proposed to NRIL. NRIL does not have to follow what the Access Proposal proposed. NRIL can also vary a Train Slot which "*arises from*" a Rolled Over Access Proposal. A Rolled Over Access Proposal is one in which (as Part D defines it), the relevant Timetable Participant "*does not seek to vary*" Train Slots previously included in the WTT. So, the Timetable Participant does not seek any change, but NRIL can still vary the Train Slot arising from this request as part of its Flexing Right. The Rolled Over Access Proposal does not have to be in conflict with any other Access Proposal in order to be varied.
- 4.15. The only limit on this right is that the Flexing Right must be consistent with Exercised Firm Rights of the Relevant Timetable Participant. Firm Rights are those, as defined under Part D, of the "*Timetable Participant under an Access Agreement in respect of the quantum, timing or any other characteristic of a train movement*". Thus, NRIL can exercise Flexing Rights in respect of Train Slots, provided the Train Operating Company still receives what it contracted to receive under the relevant Access Agreement.
- 4.16. Part D therefore requires NRIL to "*establish a timetable for the Network*"<sup>1</sup>. NRIL makes all the relevant decisions as to any WTT by applying the Decision Criteria, so enabling NRIL to achieve the defined Objective of sharing "... *capacity on the Network for the safe carriage of passengers and goods in the most efficient and economical manner in*

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<sup>1</sup> Condition D 1.1.1

*the overall interest of current and prospective users and providers of railway services*"<sup>2</sup>. NRIL applies the Decision Criteria, so that the Network can efficiently be run with all users and providers being clear as to the WTT which will apply.

- 4.17. NRIL must therefore take decisions in order to compile the WTT, and those decisions are not constrained in any way by a requirement only to be made where there are conflicts between Access Proposals.
- 4.18. This was the conclusion of TTP1122 as set out above, and for the reasons set out above, the conclusion of the Hearing Chair in TTP1122 is to be preferred.
- 4.19. Paragraph 8.1.5 of the Determination is also incorrect insofar as it is adopted to support the argument that NRIL cannot take decisions other than when there are conflicting Access Proposals. Paragraph 8.1.5 states that "[NRIL] is not entitled to reject an otherwise contractually valid and compliant Access Proposal or Rolled Over Access Proposal otherwise than in accordance with the relevant provisions of the [Code]". As set out above, NRIL is fully entitled under the Code to make decisions in compiling the WTT which reject Access Proposals and/or Rolled Over Access Proposals, where they arise from decisions which NRIL makes in compiling the WTT.
- 4.20. The words "*if the same were applicable*" should also be removed from Paragraph 8.1.2 of the Determination, as NRIL was entitled to apply the Decision Criteria, for the reasons set out above.

**Importance to the industry as a whole: TTP1174 will prevent NRIL from achieving the Objective**

- 4.21. This Appeal is of importance to the industry as a whole. If TTP1174 is upheld, then it will operate to prevent NRIL from achieving its defined Objective. Train Operating Companies will try to use it to prevent NRIL from altering the WTT other than when there are conflicts between Access Proposals. NRIL will only be able to make decisions about the WTT when there are such conflicts.
- 4.22. NRIL will therefore not be able to "*share capacity on the Network for the safe carriage of passengers and goods in the most efficient and economical manner in the overall interest of current and prospective users and providers of railway services*", because the only changes which NRIL can make will have been dictated by whatever conflicts arise between Access Proposals. This will turn NRIL's obligation to "establish" the WTT into one of a passive bystander, merely required to police disputes between Train Operating Companies. This is in stark contrast to the Objective, which requires that NRIL shares capacity in the "*overall interest*" of current "*and prospective users and providers of railway services*". NRIL will not be able to propose changes at all for prospective users and providers of railway services, as they will not have submitted Access Proposals. The WTT will risk growing haphazardly, as NRIL is constrained to make decisions only when there have been conflicting Access Proposals.
- 4.23. If it is clear that a decision needs to be made in order to achieve the Objective, and there are no conflicting Access Proposals, NRIL will be obliged, in the words of paragraph 5.13 of the Determination, to find "*a decision...upon which to hook such entitlement*" to make a decision. This is plainly not in the interests of orderly and good planning of the rail

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<sup>2</sup> Condition D 4.6.1



industry. As NRIL said in the submissions in this point cited at paragraph 5.13 of the Determination, *"[NRIL] pointed out that [NRIL] made thousands of timetabling decisions every year and few were challenged. NR said that it was difficult to accept that it could not change the Timetable by itself....many of the changes it had proposed in making offers to Timetable Participants had been in order to resolve problems arising due to the effect of the new [Timetable Planning Rules", many of which had not been taken into account in Participants' access proposals,...the resolution of these problems required [NRIL] to make decisions of a sort, thereby engaging the application of the Decision Criteria, even if they were not necessary to resolve conflicts between Access Proposals because there were no such conflicts."*

4.24. This is a good example of the kind of problem which will arise if NRIL's ability to make decisions is confined to conflicting Access Proposals. NRIL will not be able to undertake orderly and sensible planning of the WTT.

4.25. Such planning of the WTT forms part of the obligations of NRIL under the Licence which it holds to run the Network. Paragraph 1.23 of the Licence, which is headed *"Timetable planning"* expressly requires that NRIL, as licence holder shall *"(a) run an efficient and effective process, reflecting best practice, for establishing a timetable, and any changes to it; and (b) where necessary and appropriate, initiate changes to relevant industry processes, so as to enable persons providing railway services and other relevant persons to plan their businesses with a reasonable degree of assurance and to meet their obligations to railway users."*

4.26. If NRIL can only make changes to the WTT when there are conflicting Access Proposals, NRIL's ability to run an efficient and effective process, including reflecting best practice, will be frustrated. NRIL also risks not being able to "initiate" changes to relevant industry processes in connection with timetable planning, which the Licence expressly contemplates NRIL should be able to do.

4.27. If left as it stands, the Determination will therefore create a precedent which is likely to have a significant detrimental impact on the operation of Part D of the Code, and which will frustrate the Objective under Condition 4.6.1 which should be at the heart of NRIL's decision making process in compiling the WTT.

4.28. TTP1174 directly conflicts with TTP1122. This shows that this issue is of importance to the rail industry and should be resolved by the Office of Rail and Road.

## **5 DECISION SOUGHT**

5.1. The Appellant submits that this Notice of Appeal should proceed to appeal as it raises matters which are of significant importance to the industry as outlined above.

5.2. The grounds outlined in Condition M 4.1. of Part M of the Code do not apply.

5.3. The Appellant requests that the ORR removes the decision made by the Panel in paragraphs 8.1.1 and 8.1.5 of the Determination, and the words *"if the same were applicable"* from paragraph 8.1.2, on that grounds that:

5.3.1. it is wrong because NRIL has the power to make decisions when compiling the WTT, and the provisions of Condition D4.2.2 do not constrain this power when compiling the WTT to be used only where there are conflicts between Access Proposals; and

5.3.2.if left as a precedent TTP 1174 risks preventing NRIL from achieving the Objective set under Condition D4.6.1

Please acknowledge receipt of this Notice of Appeal.

Yours faithfully

Network Rail