

Report to the Scottish Ministers

TRANSPORT AND WORKS (SCOTLAND) ACT 2007

NETWORK RAIL (GLASGOW QUEEN STREET STATION) ORDER

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)(SCOTLAND) ACT 1997

Report by Karen Heywood and Robert Seaton, reporters appointed by the Scottish Ministers

- Case reference: TAWS04
- Site Address: Glasgow Queen Street Station, Glasgow
- Application for the Order by Network Rail dated 11 September 2015
- Listed building consent application reference 15/02321/DC dated 11 September 2015
- Conservation area consent application reference 15/02325/DC dated 11 September 2015
- The works proposed: redevelopment of Queen Street Station concourse, comprising removal of south and west facades, demolition of offices, minor alterations to roof and columns, demolition of Consort House and the Dundas Street canopy, demolition of the 1970s extension and alterations to the Millennium Hotel and the reconstruction and extension of Queen Street Station
- Date of inquiry: 9 to 25 May 2016 (8 days)
- Dates of accompanied site inspections: 8 March 2016 (internal areas of the station); 26 May 2016 (outside the station and the Millennium Hotel)

Date of this report and recommendation: 5 October 2016

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• Reporters	Karen Heywood and Robert Seaton
• Date of application for Order and listed building and conservation area consent applications	11 September 2015
• Date of inquiry	9 – 25 May 2016 (8 days)
• Date of report	5 October 2016
• Reporters' recommendations	The Order should be made and deemed planning permission, listed building consent and conservation area consent should be granted.

Background

1. Queen Street Station is located at the north end of Queen Street in Glasgow city centre, to the north west of George Square. The station train shed is a Category A listed building. At the south-east corner of the site is the Georgian/Edwardian Millennium Hotel, which is a Category B listed building. To the west of that is the 1970s extension to the hotel, which spans the existing station frontage to West George Street. To the west of the hotel extension is Consort House, which is an eight floor 1970s office building.
2. The proposed Order seeks powers for the redevelopment of the concourse area of the High Level Station to deliver a new station building. This will enable the operation of eight carriage length trains on the route between Glasgow and Edinburgh via Falkirk High. At the north end of the station there is insufficient space to accommodate the platform length for the operation of the longer trains, which can only be achieved by extending the platforms southward too. Platforms would be extended into the existing station concourse, requiring the relocation of the concourse further south towards West George Street/George Square on land and airspace previously occupied by station retail facilities, the Millennium Hotel 1970s extension and the Consort House office building.
3. Network Rail has also applied for a Direction under Section 57(2A) of the Town and Country Planning (Scotland) Act 1997 (as amended) for deemed planning permission. Listed building consent is being sought for those elements of the works which are for the demolition of a listed building or for its alteration or extension. Conservation area consent is also being sought for the demolition of Consort House.

The case for Network Rail

4. The line connecting Edinburgh Waverley and Glasgow Queen Street via Falkirk High is the busiest passenger route in Scotland. Network Rail's plans for Queen Street Station

will provide a station that can accommodate a doubling in passenger numbers by 2043 and these proposals form an essential part of the Edinburgh Glasgow Improvement Project (EGIP). The key elements of EGIP (revised in 2012) involve 8-carriage trains; 4 trains per hour; and a journey time of 42 minutes between Edinburgh and Glasgow. It is not possible to extend the platforms to the north for the entire length required to accommodate 8-carriage trains because this would result in a rebuild of around 30% of the existing Buchanan Galleries complex, which would take too long and be far too expensive.

5. The proposed southwards extension of platforms 2, 3, 4 and 5 would cause the station retail units and the 1970s extension to the Millennium Hotel to come within the 20 metre overrun risk zone defined by Railway Group Standard GI/RT7016, which states that structures shall not be located within the zone. Even if it was physically possible to reposition the northern row of support columns to the hotel extension, as Archyfield suggests, the repositioned columns of the extension would be positioned just outside the overrun risk zone. This would not remove the risk of a train overrunning the buffer and hitting the structure. If a train was to overrun the buffer stop and hit one of the repositioned columns of the 1970s extension, the consequences could be catastrophic. Network Rail would not consider creating such a high risk situation.

6. A passenger survey in 2013 confirmed that 70% of passengers using the High Level platforms exit the station to the west via Dundas Street during the morning peaks and enter the station from the west during the evening peaks. Passengers are held on the concourse to allow those passengers alighting trains to clear the platform first. The increase to 8-carriage trains will increase the alighting demand on the platforms. The data obtained from the survey was used to determine the appropriate concourse size, platform widths, ticket gates and entrance widths.

7. The subsequent modelling assessment of the proposed station design sought to accommodate the anticipated passenger demand levels up to 2049, which represents a 160% increase in 2013 passenger levels. Based on Network Rail's guidelines, the station requires a concourse area of 1412 square metres in 2049. The proposed development would provide a concourse area of approximately 1510 square metres and is expected to be operating close to capacity by 2049. A preliminary assessment of the initial layouts indicated the removal of Consort House and the 1970s hotel extension would be required to provide a concourse with sufficient capacity. A solution designed around retaining all or part of the 1970s hotel extension would be a sub-standard compromise solution.

8. Interaction with other schemes was part of the cumulative effects assessment of the environmental statement (2015) and environmental statement addendum (2016). Only major and national developments within a 350 metre catchment area were considered in the cumulative effects assessment, as agreed with Glasgow City Council. The redevelopment of Buchanan Galleries was assessed in the environmental statement addendum, in addition to the demolition works in North Hanover Street car park.

9. The original TAWS Order would enable Network Rail to take temporary possession of the Millennium Hotel for the duration of the proposed development works. However, Network Rail has now reached a mutual agreement with Archyfield to allow the hotel to remain operational during the construction programme. The environmental statement addendum is based on that assumption.

10. The environmental statement assessment and findings are competent and thorough. Robust mitigation was recommended where required and the correct conclusions were made, subject to the environmental statement addendum submitted in April 2016. The addendum reflects new circumstances or information that has arisen since the TAWS Application was made in September 2015. It reports any material changes to the assessment made in the main environmental statement.

11. Consultation on an application for a TAWS Order must comply with the Scottish Government's Technical Guide to the Transport and Works (Scotland) Act 2007. Pre-application consultation should be wide and thorough and may take many forms. Public consultation was carried out in two phases at the beginning and end of 2014. A series of meetings took place. The consultation exceeded the requirements of an appropriate and proper level of consultation.

12. The Order proposals in relation to Plot 26 (the station car park adjoining North Hanover Street) originally comprised the construction of staff accommodation, a sprinkler tank and an electricity sub-station. However, it is now intended that planning permission for these elements will be sought separately from the Order and the Rule 8(6) application.

13. Network Rail has engaged with Archyfield during development of the Queen Street Station redevelopment project and also regarding Archyfield proposals for a scheme to redevelop the Millennium Hotel on land owned by Network Rail to the north of the hotel. These discussions have not progressed, as it was not possible to reach an agreement on the value on the 1970s extension.

14. The TAWS Order proposals also include: temporary stopping up of West George Street between Dundas Street and Queen Street for 1 month and for two further periods of 48 hours each. The two northernmost lanes would be closed for approximately 23 months; temporary stopping up of Anchor Lane and suspension of private vehicular rights of way over Citizen Lane for 1 month and for two further periods of 48 hours each; temporary stopping up the carriageway and most of the footway on the east side of Lower Dundas Street; in Upper Dundas Street mobile cranes and an associated delivery area would be located on the carriageway; a parking area for service and delivery vehicles is proposed on the north side of St Vincent Place; and the Bus Gate Traffic Regulation order at the entrance to Nelson Mandela Place would be suspended to allow vehicles associated with the works to use the bus gate. Mitigation works are proposed in a traffic management plan.

15. The station is located in the Glasgow Central Conservation Area. The south facing entrance is accessed beneath the bedroom wing of the hotel. This approach has steep pavements, steep stairs and an uncompliant ramp. Consort House, the hotel extension and the retail facilities beneath and the ancillary administrative functions to the west side of the station were constructed during the late 1960s/early 1970s and are of a dated and generally poor appearance. The demolition of these buildings would provide the space necessary to accommodate the increased passenger numbers passing through the station.

16. The station is located on a constrained site and is a poor gateway to the city. It lacks any civic quality internally and any civic presence externally. The redevelopment of the station for EGIP creates an opportunity to address this. The design of the new concourse maximises concourse area and optimises flows through the gate line.

17. The quality of the Category A listed train shed has been compromised by the incremental 'modernisation' of the station. The design intent is to allow the structure of the train shed to be revealed once more. The proposed development takes cues for its scale from its immediate neighbours. The Design and Access Statement explains the rationale of the design in terms of the broad principles set out in Scottish Planning Policy, Creating Places: A Policy Statement on Architecture and Place for Scotland and Glasgow City Plan 2 Policy DES1 – Development Design Principles.

18. The Millennium Hotel has never been part of the station. The station and the hotel are separate buildings and each has its own fire systems and fire escape procedures. Therefore, the fire strategy requires a new fire rated wall to be built approximately 2.5 metres from the hotel's gable. This aids constructability, ensures the historic fabric of the hotel gable can be repaired and improves the visibility of the hotel's gable from the street. For fire strategy reasons it is also necessary to block up the existing windows in the west elevation of the original hotel building. Criticisms by Archyfield do not align with the views of Historic Environment Scotland (HES), which has been supportive of the design proposal's relationship to the Category A listed train shed. HES also recognises the commercial and technical constraints that have led to the design solution relative to the gable of the hotel.

19. The council considers Consort House to be part of the station listing, whereas Historic Scotland took the view that it was not part of the listing. As Consort House essentially exists as a separate built form, Network Rail's advisor tends towards Historic Scotland's view. However, to ensure that both views were addressed, the demolition of Consort House (and the attached canopy on Dundas Street) is included both within the application for listed building consent and also under a separate application for conservation area consent.

20. Consort House dates from the late 1960s/early 1970s. It is of a brutalist concrete appearance and turns its back on the station. It is a discordant addition and is not of special interest. The principal special interest of Queen Street Station lies in the single span form of the train shed. The principal setting of the train shed is its relationship with Cathedral Street and Cathedral Street Bridge. The construction of Consort House, the Millennium Hotel extension and the station retail and management units has effectively concealed the station's presence in the cityscape from the south.

21. The demolition of Consort House and the other buildings would have no substantial impact on the special interest of the train shed. The concourse area would be extended to Dundas Street, West George Street and George Square. This would create designed views towards and from the vaulted train shed structure. The setting of the original train shed would be significantly improved.

22. The special interest of the Category B Listed Millennium Hotel primarily relates to the Georgian and Edwardian part of the building overlooking George Square. The 1970s extension is of little architectural value and its demolition would remove an accretion that has significantly detracted from the character and appearance of the Edwardian part of the hotel, providing an opportunity to significantly improve the setting of the listed building.

23. For fire engineering purposes, the window recesses and existing openings in the west gable of the original hotel building would be built up in sandstone. The original concerns raised by Historic Environment Scotland have been addressed in the explanations of the design rationale and the minor adjustments proposed in subsequent correspondence.

The new building would significantly improve the character and appearance of the local area and the setting of the Millennium Hotel and other listed building nearby.

24. The proposed development significantly improve the framing of the views towards and from St George's Tron Parish Church and to and from City Chambers and George Square. Regarding the demolition of Consort House, this is not of substantial architectural value and does not contribute positively to the character and appearance of the conservation area. The proposed development complies with local planning policies on design and built heritage.

25. In relation to noise, potential significant effects during demolition works were identified at the Carlton Hotel and the Millennium Hotel. Mitigation would be provided by the application of best practicable means, implemented through a Code of Construction Practice, and with other on-site mitigation potential significant adverse effects would be mitigated. The provisions contained within the Code would mitigate and avoid the effects of noise identified at the Carlton Hotel.

26. If it were to remain in use, as preferred by Archyfield, the Millennium Hotel would receive a significant effect from demolition and construction noise, especially at night. It would be possible to mitigate the effect of the noise through the provision of a noise insulation scheme, including secondary glazing.

27. The project has the potential to generate local air quality impacts during the demolition and construction phase. The air quality assessment presented in the environmental statement and the addendum is competent and thorough. No residual significant air quality effects were predicted following consideration of the dust control measures contained in the Code of Construction Practice.

28. The Code of Construction Practice would be incorporated into the contracts for construction of all the works defined in the TAWS Order. Network Rail has also proposed that compliance with the Code be made a planning condition, in which case it would also be enforceable by the local planning authority, which gives comfort to third parties. The same applies to the Framework Traffic Management Plan.

29. The Code of Construction Practice requires that an Environmental Management Plan with a number of specific Topical Environmental Management Plans would be prepared by the contractor. In addition, the contractor would be required to register with and adhere to the Considerate Constructors Scheme.

30. Purewal Properties owns 32-50 Dundas Street. In the draft Undertakings Agreement, Network Rail has offered to provide Purewal with on-going consultation throughout the project; a single point of contact throughout the works; 24 hour 7 day a week support through the community relations helpline; and monthly meetings/site visits with regular programme updates. Purewal was provided with drawings of the interfaces between the buildings and a list of the indicative scope of works to be delivered to the properties themselves.

31. A draft settlement agreement is with Clydesdale Bank's representatives, who confirm that there are no significant issues outstanding. However, this objector has yet to respond and the objection has not been formally withdrawn.

32. Mr Paul Pagliari is a resident of Ingram Street and has a resident's parking space which is accessed via Cochrane Street. Network Rail published newspaper notice of the application and notice in the Edinburgh Gazette and displayed site notices in and around Queen Street station. Network Rail also undertook a consultation exercise.

33. The Order would not make any changes to the operation of the bus gate as affecting the general public. Access via West George Street is already controlled by the bus gate, meaning that private vehicles cannot use this route between 07:00 and 19:00 hours each day. Network Rail does not propose to change this arrangement. When West George Street is closed there would be an impact on private vehicular access after 19:00 and before 07:00 hours each day. During this period there would be alternative routes available for local access, and these are the routes that must already be used during the hours that the bus gate is in operation.

34. The proposal meets the aspirations of the Glasgow and Clyde Valley Strategic Development Plan for sustainable development and good public transport. It is consistent with the Glasgow City Plan 2 designation of the station as Transport Infrastructure and the policy aims of encouraging proposals which support integrated and sustainable transport. The extension of the station into areas presently occupied by the Millennium Hotel extension and Consort House is consistent with the allowance for complementary uses which contribute to vitality and viability and improve accessibility in the Principal Retail and Office Areas as identified in the City Plan.

35. Scottish Planning Policy introduces a presumption in favour of proposals contributing to sustainable development and requires the creation of high quality places. The primary purpose of the redevelopment is to provide for growth in passenger numbers and increased train lengths. Achieving that within and around its existing site and with minimal impact on the historic environment is compliant with Scottish Planning Policy. The proposed development meets also the six qualities of successful places, as outlined in the Policy.

36. The Order was necessitated by the Scottish Government's policy decision to promote the Edinburgh Glasgow Improvement Project by introducing eight-carriage trains on the service. That policy decision accorded with the key objectives of Scotland's National Transport Strategy 2006: improved journey times and connections; reduced emissions; and improved quality, accessibility and affordability. When the National Transport Strategy was reviewed in January 2016 those three Key Strategic Outcomes were restated. If the hotel extension was to be excluded from the scope of the Order, Network Rail would not proceed with the proposed redevelopment to accommodate eight-carriage trains. It would, therefore, be necessary to revisit the 2012 policy decision not to pursue the considerably more expensive option of increasing the frequency of six-carriage trains. This would also render abortive the expenditure already made to enable the use of eight-carriage trains on the Edinburgh-Glasgow via Falkirk High route.

37. Archyfield acknowledges that it could operate a smaller format hotel at the site. Archyfield agrees that other hotel operators could be found who would be able to operate a smaller hotel. Archyfield is asking Scottish Ministers to put Archyfield's commercial interests in the 51 bedrooms that would be lost ahead of the public interest in delivering the proposed new Queen Street station and the contribution that that would make to the Edinburgh Glasgow Improvement Project. Network Rail does not consider that to be a tenable position.

38. Circular 6/2011 emphasises that in considering whether to confirm a compulsory purchase order Scottish Ministers will weigh up the public benefit in the proposal against the interests of the people affected. Network Rail considers that a balancing of public benefit and the private interests of Archyfield would favour the making of the Order for the following reasons: planning permission and listed building consent has already been granted for alteration and extension of the hotel which would more than replace the lost bedrooms; Archyfield may operate a hotel with only 66 bedrooms; and there is no evidence that the hotel would be likely to fall out of hotel use even if Archyfield were not the operators.

39. Without the 1970s hotel extension the scheme to which the Order relates would not proceed. There is no evidence that a “holistic development”, as preferred by Archyfield, is practicable or deliverable. There is no evidence of any agreement among Archyfield, Network Rail and LS Buchanan or any two of them. If the 1970s hotel extension was to be excluded from the scope of Schedule 6 (compulsory acquisition) but not from Schedule 1 (the scheduled works), a ransom situation would be created. Network Rail offered to buy the 1970s extension in February 2014. That offer was not accepted and there was a substantial chasm between the figure offered by Network Rail and Archyfield’s expectations.

The case for Archyfield

40. The Millennium Hotel is successful and profitable, with high occupancy rates. The Order in its current form would have a significant effect on facilities, services, profit and staffing. The reduction in rooms would mean the hotel would no longer fall into its present international class, and would have to be operated as a boutique hotel. This means the loss of a significant public facility for Glasgow. It would have adverse economic effects. The hotel’s profitability would be affected because fixed costs could not be reduced proportionately to the reduction in rooms. While it may be possible to replace up to 8 rooms by internal rearrangement of the remaining building, this is likely to cause loss of other facilities and so other revenue streams. There would be a particular impact on the hotel’s ability to accommodate tour groups. The hotel would lose its west and rear entrances and cannot appropriately be serviced through the front guest entrances. Financial compensation would not make up for the loss of loyal and experienced staff.

41. Given the effect on the hotel of the extension’s demolition, all practical means should have been explored for retaining it. Network Rail has not properly considered the alternatives. Because the application is not proceeding through the planning system, the opportunity has been lost for detailed scrutiny of the proposals, which might have led to an improvement in the design. The consultation carried out was inadequate. This is reflected in the standard of proposals before Ministers.

42. Network Rail assumed the hotel extension’s demolition was necessary and did not examine any alternative involving its retention. However, the platform lengthening only brought the hotel extension 1-2 metres into the overrun risk zone, so the option of the extension’s retention should have been considered. If there are means to achieve a 20-metre overrun risk zone without the hotel extension’s demolition, Network Rail’s design process is flawed in its basic assumptions.

43. Network Rail’s focus on its “primary purpose” of providing for growth of passenger numbers and capacity for longer trains has deflected attention from how the station should integrate with surrounding land uses. Although the council tried to promote coordination between Network Rail, Buchanan Galleries and the Millennium Hotel, this has failed

because Network Rail has been unwilling to engage. Network Rail's proposals do not connect the hotel and station visually or functionally and do not provide a holistic solution. This is unacceptable. Archyfield has drawn up proposals for a new rear extension to the Millennium Hotel to off-set the loss of rooms from the extension's demolition. The proposals took a holistic approach to the station area's redevelopment, fitting with proposals both for the station and extension of Buchanan Galleries. The council has granted planning permission for Archyfield's scheme.

44. Archyfield acknowledges the heightened braking risk resulting from the station being at the foot of the Cowlairs incline and that the platforms and concourse have to be extended to the south. However, given the small overlap between the overrun risk zone and the hotel extension, Network Rail should have carried out a risk assessment to inform its analysis of the acceptability of the extension's retention. Had such an assessment been carried out it might have identified options for risk mitigation such as modifying the extension, slightly shortening the proposed platforms or providing a more effective buffer stop (if feasible). Similarly, no assessment has been made either of whether Archyfield's alternative proposed concourse design (retaining the extension) would meet Network Rail's minimum criteria for the redeveloped concourse or of whether derogation might be made from those criteria. Such assessments would have demonstrated whether there was any alternative to the extension's demolition.

45. Archyfield's railway witness acknowledged that Network Rail is entitled to rely upon the professional judgement of its experts on safety matters. He made the case, however, that there should have been dialogue so that Archyfield could understand Network Rail's reasoning on the extension's demolition.

46. Archyfield's architects produced design options that would have provided a unified approach to the station area's redevelopment, preserved the historic building, and made up for rooms lost by the hotel extension's demolition. This approach had support from the council and Historic Environment Scotland. The approved hotel extension would infill airspace between the new Buchanan Galleries car park and the listed hotel building. It could still go ahead without the car park's being built if it was placed on pillars. The car park could be inserted subsequently.

47. Since there would be an overlap of 1 metre or so between the existing hotel's extension and the lengthened platforms' overrun risk zone, rail industry guidance indicates a risk assessment is required. Although Archyfield has requested a risk assessment, none has been provided. If retaining the existing hotel extension is assessed as presenting a critical risk, the overlap could be addressed by making the lengthened platforms slightly shorter (they vary in length in any case) or moving the hotel extension's supporting columns and removing its first floor or moving its façade. If the first-floor façade is removed with the remainder retained, this would still allow a concourse design opening up on George Square, including retail units facing the square and providing a generous concourse area with full visibility of information screens.

48. Network Rail's proposals would put a solid wall opposite the remaining hotel's west façade, and involve blocking existing openings in the façade, so removing the hotel's west entrance. Fire separation could be achieved by more discrete methods.

49. Archyfield's primary position is that the order should not be granted and consents sought refused. As an alternative, Network Rail should not be granted compulsory

acquisition powers for the hotel's extension. This would allow an opportunity for holistic redevelopment proposals for the station and hotel along with the LS Buchanan development to be brought forward. Archyfield's key points are:

- All relevant considerations must be taken into account;
- Network Rail must show it has properly assessed alternatives to compulsory acquisition, that impact on people affected has been considered properly, and that compulsory acquisition is necessary;
- Ministers must have sufficient information on what is proposed and on its environmental effects. Controls must be imposed to ensure the project is carried out within the parameters assessed and securing the mitigation measures assessed;
- In respect of listed building consent and conservation area consent, Ministers must comply with statutory requirements to have special regard to the desirability of preserving the listed building and its setting and any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

50. Consulting properly at a formative stage of the project with relevant bodies and the public is a requirement of Government policy and guidance in respect of transport and works orders, and is vital to the process. Network Rail's approach was inadequate. It did not give consultees the opportunity to make informed responses. The proposals suffered as a result. Network Rail failed to consider the alternative of holistic redevelopment because of irrelevant considerations related to compensation. The draft Order initially proposed did not make clear what it authorised. There have been a number of subsequent changes to the draft Order (and to the other applications before Ministers) but these have not fully remedied the failings.

51. There must be a compelling case in the public interest for authorising compulsory purchase of rights in land. Network Rail has not considered alternatives that did not involve compulsory acquisition of the hotel extension, but has simply assumed it is required. That assumption is not supported by the evidence. Archyfield's architectural witness has put forward design proposals that complies with railway standards and guidance. This design, with which structural engineers are comfortable, would have provided a concourse of sufficient size with only three pillars. It would have met minimum headroom criteria and would have provided visibility to passenger information boards.

52. It would be easy to design proposals that retained the hotel extension with no structure in the overrun risk zone, including a scheme that took a holistic approach to the station, hotel and LS Buchanan retail development. Network Rail assumed an alternative approach would cost an additional £250 million on the basis that more frequent trains would be required. Archyfield's evidence of an alternative shows this is incorrect. The funding of the project is within the control of the Scottish Government. It cannot be concluded the project funding is time critical simply because the project might run beyond the end of Network Rail's control period 5. Available alternatives would deliver similar public benefits to the Network Rail proposals. Network Rail's failure to consider alternatives properly and so to demonstrate that compulsory purchase is necessary in the public interest precludes the Scottish Ministers from granting the Order.

53. Network Rail's proposal to block windows in the west façade to provide fire separation affects nine rooms whose windows would either be blocked or cannot be opened up. These might otherwise be converted to guest rooms. Network Rail failed to consider alternative fire separation solutions, although Archyfield's architectural witness considered such solutions could be provided. The hotel would only retain 62 guest rooms following the blocking of windows in four western rooms.

54. Network Rail has emphasised its proposals' compliance with transport policy. It has produced little evidence of support from key stakeholders: the council, Historic Environment Scotland, and the Glasgow Urban Design Panel all expressed justified concerns. In scale, hierarchy and massing, the proposals are at odds with their context. The proposed station building turns its back on its context.

55. The environmental statement has a number of flaws:

- it should include an outline of the main alternatives studied and justify why other alternatives were not studied. The assessment did not consider alternatives that would have allowed the hotel to continue to operate and that would have integrated with the area's redevelopment;
- the assessment of cumulative effects, restricted to considering those of major developments within 350 metres may not capture all likely cumulative effects;
- not all baseline developments were considered that should have been, including Archyfield's proposed rear extension, redevelopment of the station's east side, and extension of the station platforms. Works should not be discounted as having cumulative effects because they are not concurrent;
- the environmental statement does not appear to include an assessment of the effect on the hotel's setting from demolition of its extension. It suggests adverse effects on built heritage cannot be avoided, but it has not considered alternatives that might have avoided some effects;
- effects on traffic and transport are not considered including the effect on the hotel's servicing. Cumulative transport effects with the platform lengthening have not been considered; and
- only works that have been assessed can be authorised. Works should therefore be restricted to what has been assessed. There is no specification of ancillary works in Schedule 2 of the draft Order, just a list of examples ending in a catch all. It cannot be known whether the effects of such development would be significant.

56. The accommodation block, substation and fire sprinkler system, which Network Rail's witnesses identified as essential to the development, are not included within the Order. Without certainty that these would be delivered, it is not clear that the development would be viable.

57. Network Rail has several times amended the draft Order with the consequence that the Order it is proposing bears little resemblance to that advanced at the start of the inquiry. Many changes were made in response to Archyfield's criticisms. The terms of the final draft are still unjustifiably wide.

58. The request for deemed planning permission in principle leaves it uncertain what is being granted consent, a matter of importance to Archyfield since the permission would apply both to land to the rear of the hotel and to plots 2A to 2B and 2C in its western part. The reasoning supporting the grant of planning permission in principle is confused.

59. Archyfield set out its understanding of several points of the legal framework relating to the decision on the application. In doing so it made the further criticism that the appellants seek to use the planning permission in principle for development for which no further approval is required. This goes beyond the scope of section 59 of the Town and Country Planning (Scotland) Act 1997.

The case for other objectors

60. Clydesdale Bank PLC objected in several capacities. It holds a standard security over Purewal Properties' premises on Dundas Street. In this regard it objected that it did not have sufficient information on rights sought or protection offered to assess the effect on its interests. The bank also objected in respect of the temporary stopping up of Anchor Land and suspension of the private right of way over Citizen Lane. It considered this would affect properties over which it holds a charge, and would also affect the operation of its headquarters on St Vincent Street/Place and Buchanan Street. The bank requires advance notice of closures to prevent disruption. The bank also operates two automatic teller machines on West George Street and required further information to assess the street closure's effect on their operation. Representatives of the bank stated that agreement had been reached on all of these matters, but its objection has not been withdrawn.

61. Mr Paul Pagliari, resident of Ingram Street objected that the proposed closure of West George Street would compound existing traffic restrictions such that city centre residents would have to make a long detour when travelling from the west, and this would have a disproportionate effect on him and other residents. Residents should have been notified of the application.

62. Purewal Properties objected in respect of the adverse impact on vitality and viability of businesses on Dundas Street. It referred to the effects of construction on amenity, the loss of windows at 32 Dundas Street and the effect on servicing of the properties. It sought to be consulted on the traffic management plan and indemnified for any costs of professional work in agreeing compensation for effects on title and amenity.

Reporters' conclusions

Objections to the Order by Archyfield

63. Archyfield is critical of the consultation process carried out by Network Rail. Consultation took place in two phases and included information leaflets and posters; station billboards; press releases; newspaper adverts; a mobile advertising trailer; a radio campaign; a dedicated project web page; social media (Twitter); dedicated E-mail; and a telephone-helpline. In addition, briefings with statutory consultees, communities, stakeholder groups, interested parties and elected representatives were carried out. Representatives from Archyfield were invited to the consultation launch event; the consultation letter was sent to the Archyfield Company Secretary; and the public exhibition was held in the Millennium Hotel. Network Rail met with Archyfield a number of times during project development.

64. We do not agree that there has been a lack of engagement and that Network Rail has not complied with Scottish Government policy in relation to the consultation undertaken. We conclude that the consultation process was wide and thorough, as advocated in the

Scottish Government Technical Guide. Furthermore, once the Order was submitted it was advertised in the press and copies of the application were served on the parties as required in the TAWS Rules 2007 and objections were made. In response to the objections, Transport Scotland decided to hold an inquiry. The inquiry process is another opportunity for those who have objected to the proposed development to have their objections heard. Archyfield made a full contribution to the inquiry.

65. Network Rail made a number of changes to the draft Order before and during the course of the inquiry. Archyfield is critical of these changes, as it alleges that the draft Order as originally submitted failed to identify what it would allow Network Rail to do. We agree that the Order as originally drafted could have been clearer and we have recommended some amendments (Appendix 4). However, we consider the Order as a whole can be readily understood. Furthermore, Archyfield, as one of the statutory consultees, would have been well aware that the intention was to acquire and demolish the hotel extension. We conclude that, even before the amendment, it was possible to understand what the Order intended to happen. The amendment was an improvement in the text, and was not a fundamental change. We consider that the changes that have been made are for clarification or to correct errors. They do not substantially alter the nature or effect of the proposed Order.

66. Archyfield asserts that it is unlikely that the proposal would be in the form it is in if it had been a planning application instead of a request that Scottish Ministers deem the grant of planning permission by a direction under section 57(2A) of the Town and Country Planning (Scotland) Act 1997. We consider that Archyfield's assertion can be no more than speculation.

67. Archyfield criticises Network Rail because it did not consider any alternative schemes that did not involve the compulsory acquisition of the hotel extension. We do not consider that this correctly describes how Network Rail developed the project in its early stages.

68. There is no dispute that the 8-carriage trains proposed as part of EGIP require several platforms at Queen Street Station to be lengthened. There is also no dispute that it is not possible to accommodate the increased length required by extending the platforms to the north alone. The dispute centres on whether it is possible to allow structural columns supporting the hotel extension to remain within or just outwith the 20 metre overrun risk zone. The proposed southward extension of the platforms would bring the station retail units and the hotel extension within the 20 metre overrun risk zone. The hotel extension would be within approximately 18 metres of the new buffer stops. Archyfield has suggested that the northern row of columns supporting the hotel extension could be repositioned to move them out of the overrun risk zone, which would allow the hotel extension to be retained.

69. However, the buffer stop risk assessment process is quite complex. There is always the risk of a train hitting a buffer at much higher speeds than the 20 metre zone is designed for, with the train coming to a halt outwith the zone. One of the factors affecting buffer stop risk is the distance of the occupied area from the buffer stop face. This factor goes up to 100 metres from the buffer stop face. This means that structures would be at risk from an overrunning train at distances greater than 20 metres, albeit the risk weighting factor is smaller further away from the buffer stop face. The risk weighting factor for the Network Rail proposal (no structure in the zone) is 0. If the hotel extension remains where it is the risk weighting factor would be 200. The risk factor of 200 is applied where there is a high

number of passengers, public or staff (defined as an average of more than 100 people) that would be affected by structural collapse.

70. Network Rail's witness explained that professional judgement must be used in the risk assessment process and a conservative approach should be taken when there is a high risk to passengers of an overrunning train. Network Rail undertook no risk assessment of the Millennium Hotel potential alternative proposals as any scenario where a structure that remains in the overrun risk zone and would be at risk of collision is totally unpalatable. Archyfield's proposal to move the columns would not remove them from risk of collision.

71. We conclude that Archyfield's criticism of Network Rail for the lack of consideration of alternative schemes has no substance. We note that alternative schemes not involving demolition of the hotel extension were considered in the early stages. We agree with Network Rail that the consequences of a runaway train colliding with the extension are sufficiently serious for its retention not to be considered as a viable option. There is no point undertaking a risk assessment of such an option.

72. Archyfield appointed an architect to design alternative proposals for the re-development of Queen Street Station that would retain the upper floors of the hotel extension. As we have already concluded that the retention of the extension would not be a viable option, there is no need for us to consider this matter further.

73. The Queen Street Station train shed is a Category A listed building. Views of the train shed from the south are restricted by the hotel extension. We do not consider that this view would be detrimentally affected by demolition of the hotel extension and the construction of the new station building, as the new building would be lower than the height of the plant room on top of the hotel extension and it would be possible to see slightly more of the arch of the train shed.

74. The view of the arch of the south gable of the train shed in the open air would be lost. However, the new building would have views of the south gable of the train shed from within the concourse. We do not consider that the loss of the limited view of the south gable of the train shed from outside the southern entrance to the station is a significant issue. We conclude that the proposed development would not have a detrimental impact on the train shed or its setting. Historic Environment Scotland considers the proposed replacement building improves on the current situation, allowing the train shed to be more visible in views from the south, and confirmed it was content with the proposals insofar as they relate to the A-listed train shed.

75. With reference to the category B listed Millennium Hotel, the rear part of the west elevation of the original building has a very unprepossessing and somewhat dilapidated appearance. We do not consider the loss of this view of the west elevation would be of great significance. We share the concerns expressed by Historic Environment Scotland and Glasgow City Council in relation to the retention or infilling of the windows. However, we do accept that the fire wall for the station has to be built some distance away from the hotel to avoid disturbing the hotel's foundations. We accept that infilling of the windows is necessary in the context of the currently proposed fire strategy arrangements. We consider that it would be of benefit to the character of the listed building if the windows could be retained and reinstated and not infilled. However, if this is not possible, we do not consider that the current proposal to infill the windows is sufficiently detrimental to the character of the listed building to justify not making the Order.

76. We consider the amendments to the glazed screen and the ground floor on the front elevation adjoining the hotel are improvements on the original proposals. We believe the impact of this part of the proposed development on the setting of the Millennium Hotel would be some improvement over the current situation. We do not consider that the relationship between the Millennium Hotel and the new station building would be so very different to the present arrangement, as the hotel would still be located next door to the station, albeit the entrances would be slightly further apart.

77. Overall we conclude that the removal of the unsympathetic 1970s extension to the hotel, Consort House and the retail units and their replacement with the new station building would improve the setting of the Category B listed original hotel building and of the Category A listed train shed and also the other listed buildings in the vicinity. We do not agree with Archyfield's assertion that it is difficult to see how any regard has been had to the New Design in Historic Settings guidance. We believe that the proposed building would make a positive contribution to the existing urban structure. We agree with the point made by Historic Environment Scotland, that Consort House, the station retail units and the hotel extension do not make a positive contribution to the character of the conservation area. It is our view that the proposed building would be a vast improvement in comparison with the buildings that are on the site at the moment.

78. The loss of guest rooms in the hotel extension would have a profound impact on the hotel and how it is run. We accept the hotel would have to be operated and marketed differently. We also acknowledge that it is likely that some jobs would be lost. We sincerely regret the very real personal impact on those people who would be affected.

79. We have no evidence that it would not be possible to operate a smaller hotel at the site. We believe that Archyfield is determined to continue operating at the site. We also consider that the site location would maximise the possibility of another hotel operator coming forward. We conclude that there is no evidence that making the Order would result in the listed building at the Millennium Hotel falling into disuse.

80. We have set out in Appendix 3 to this report our findings on the significant environmental effects of the proposed development and the main measures to avoid, reduce and remedy major adverse environmental effects of the proposed development.

81. Archyfield criticised the number of alternatives considered by Network Rail in the environmental statement as unduly restricted. Network Rail did not study the station's redevelopment with the Buchanan Quarter as an alternative to the development for which the application was made because, at the time, a redevelopment in conjunction with the Buchanan Galleries extension was not in prospect. As regards the alternative involving retention of the hotel extension, Network Rail's evidence is that this would not have delivered the primary objective of extended platforms capable of accommodating 8-carriage trains in a safe station environment. Therefore, Network Rail was not required to report on such an alternative in the environmental statement.

82. Archyfield argued that not all other projects with which the proposed development was likely to have significant environmental effects had been identified in the environmental statement. We consider it is acceptable to apply criteria to eliminate projects that are not likely to be relevant to the cumulative assessment. The cumulative assessment boundary of 350 metres had been arrived at by using the boundary of the air quality assessment – the

furthest of any of the assessment boundaries used for the assessment of individual topics. Network Rail found no developments outwith that boundary that would be likely to have significant environmental effects with the proposed development. The council identified one additional development that fell just below the scale criterion which was then included in the cumulative assessment. We do not find it likely that significant cumulative effects have been missed in the environmental impact assessment as a consequence of Network Rail's use of their chosen criteria of scale or proximity.

83. Archyfield criticised the omission of Archyfield's proposed northern extension of the Millennium Hotel and of the other phases of EGIP. As Network Rail controls the land on which the hotel development is proposed, it cannot proceed until after the station redevelopment works are complete. We find it was not necessary for Network Rail to consider it as part of the cumulative baseline. In relation to the other phases of EGIP, these were completed on 7 August 2016. Given that the council has not raised any concern in respect of the cumulative assessment of noise and dust effects, we are content the evidence does not indicate that significant cumulative effects have been missed in the environmental impact assessment process.

84. The sprinkler system, driver accommodation and replacement electricity substation to be built on the present North Hanover Street car park (plot 26) are essential for the station redevelopment to proceed. They were not included in the environmental assessment. These three elements are no longer included in the Order. Network Rail has now provided greater detail on these works and stated that no significant cumulative effects with the proposed development are likely given their relatively limited scale. We agree.

85. Based on Network Rail's evidence we assume that all demolition work at night would be light demolition, unless circumstances unforeseen at this stage arise. Regulation of noise is to be dealt with in the Code of Construction Practice approved by the council. It is also subject to controls under sections 60 and 61 of the Control of Pollution Act 1974. These controls should be sufficient to protect noise sensitive neighbours, including the Millennium Hotel. Therefore, we do not find it necessary to recommend a specific restriction on heavy demolition at night.

86. Archyfield argues that ancillary works should be restricted to those identified in the environmental statement. It is not unusual in large projects such as the proposed development that not every detail of ancillary works is known at the stage at which development consent is sought. However, we do not find it appropriate to grant consent that would provide authority for future works that might follow the station redevelopment project. We have recommended amendments to the Order so that the authorisation granted is solely for the station's redevelopment and works ancillary to that.

87. The changes we have proposed would minimise any likelihood of there being any significant environmental effect not already assessed arising from proposed ancillary works. However, since the precise nature of ancillary works is not at present known, the possibility of such effects cannot be ruled out. We have therefore proposed amendments that adapt the existing regime for multi-stage consents in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 and apply it to applications for approval under deemed planning permission associated with the Order. We consider that these amendments will address Archyfield's concern in respect of environmental assessment of ancillary works.

88. A traffic and transport assessment was not carried out in respect of demolition of the Millennium Hotel extension. However, any issues would not be as great as those already assessed for the demolition of Consort House.

89. Archyfield criticised the submission of an addendum to the environmental statement shortly before the inquiry started. It is not unusual in a large project for additional environmental information to be submitted after the initial application. The addendum was submitted at least partly in response to criticisms by Archyfield of the proposed project, since it dealt with the continued occupation of the Millennium Hotel through the period of construction of the proposed development. Archyfield was given the full statutory period to consider the addendum at a time when no decision on the project had been reached.

Other objectors

90. We consider the non-withdrawal of Clydesdale Bank PLC's objection to be no more than an oversight of no great significance, as there appear to be no issues remaining between the parties. With reference to Mr Paul Pagliari's concerns, we consider that the TAWS Order application has minimal impact on the existing arrangements for private vehicular access in the city centre. We are satisfied that Network Rail will continue to do its utmost to minimise disruption to Purewal Properties and its tenants in Upper Dundas Street.

The application for deemed planning permission

91. Network Rail's approach to drafting the Order was to provide broad powers to carry out the station redevelopment project, but describe the project only in outline. Any deemed planning permission as may be granted under section 57(2A) of the Town and Country Planning (Scotland) Act 1997 (as amended) should reflect the project for which consultation and environmental assessment were carried out. The drafting of the request for deemed planning permission is unnecessarily complex. We recommend that, in considering a grant of deemed planning permission, Ministers should describe the development for which consent is granted in terms that accord with paragraph 1.1 and section 3 of the Memorandum of Aims and paragraph 2.3.1 of the environmental statement, while referring also to the plans listed in schedule 1 of the request for deemed planning permission.

92. We do not consider that the distinction made by Network Rail between deemed planning permission in principle and deemed planning permission is a meaningful one in the context of section 57(2A) of the Town and Country Planning (Scotland) Act 1997, which would grant planning permission. However, section 57(2A) does allow matters to be reserved for subsequent approval by the planning authority.

93. Sections 37(2) and 25 of the Act are not applied to a direction under section 57(2A). We do not agree with Network Rail that transport policy should take precedence over planning policy. National Planning Framework 3 is supportive of the proposed development. We consider that the redevelopment of the station accords with the two principal policies of Scottish Planning Policy – sustainability and place making. The Glasgow and the Clyde Valley Strategic Development Plan is supportive of the proposed development. There is no conflict with policies of the Glasgow City Plan 2 and equivalent policies in the proposed Glasgow City Local Development Plan.

94. Our overall conclusion in relation to national, strategic and local planning policies is that they are, for the most part, supportive of the proposed development. We do not

consider that the minor conflicts we have identified are of such great significance as to justify withholding a Direction that planning permission should be deemed to be granted for the proposed development.

The application for listed building consent

95. We consider that Consort House is not part of the listing of the Queen Street Station train shed. Consequently, listed building consent is not required for its demolition. We consider that the works proposed would enhance the settings of the listed buildings and the features of special architectural or historic interest of the train shed. The works proposed near the west elevation of the Millennium Hotel would have some detrimental impact on that listed building. However, we do not consider that work is significant in the context of the existing view of that elevation. Conditions could be attached to the listed building consent which would ensure that this part of the works was carried out in as sympathetic a manner as possible. The proposed development would not conflict with Scottish Planning Policy on the historical environment.

The application for conservation area consent

96. We conclude that Consort House does not make a positive contribution to the character of the conservation area and its demolition would have a positive effect.

Transport Policy

97. As an integral part of the Edinburgh Glasgow Improvement Project, we consider that the redevelopment of Queen Street Station would help to achieve the strategic outcomes of the National Transport Strategy 2016.

Conditions

98. We have provided a list of suggested conditions in Appendix 2 of this report, which is based on most recent list of conditions supplied by Network Rail. We have amalgamated conditions to avoid unnecessary repetition and have merged all of the conditions which concern aspects of the construction works with the Code of Construction Practice condition.

Changes to the Order

99. We have recommended some changes to the Order (Appendix 4):

- to ensure the authorisation of works is limited to the project for the redevelopment of Queen Street station, and does not authorise works subsequent to that project;
- to ensure assessment of significant environmental effects that may emerge from details submitted for approval under conditions of deemed planning permission before all or the relevant part of the development is commenced;
- to ensure that the term “the completion of authorised works” is defined, as it is used as the commencement of a number of time periods in the Order; and
- in the absence of an explanation of the reason for including consent for ancillary works “within the land adjoining plot no.1 which is the part of the land shaded grey on

sheet no. 4 of the Order plans” and how it relates to the proposed development, we recommend that it is not included

Overall conclusions

100. In this case we conclude that:

- there is a strong public interest in the redevelopment of Queen Street Station;
- the proposed development is supported by Scottish Ministers’ policies and by development plan policies;
- acquisition and demolition of the Millennium Hotel extension is necessary;
- Archyfield’s alternative proposals are not credible;
- the concerns expressed by the objectors, including Archyfield, do not outweigh the strong public interest in the redevelopment of Queen Street Station;
- the listed buildings and their settings would be preserved; and
- the proposed development would have a positive effect on the character of the conservation area.

101. We conclude that the works are necessary, have been clearly justified in the public interest and therefore that the Order should be made and deemed planning permission, listed building consent and conservation area consent granted for the scheme.

Recommendations

102. We recommend:

1. that the Network Rail (Glasgow Queen Street Station) Order be made subject to the amendments detailed in Appendix 4;
2. that planning permission be deemed to be granted for the works as described in the Order and on the detailed drawing and statements accompanying the request for planning permission, subject to the conditions and advisory note set out in Appendix 2;
3. that listed building consent be granted for the works as described in the application for listed building consent dated 11 September 2015 and on the detailed drawings and statements accompanying the application, subject to the conditions set out in Appendix 2 (deleting the reference to Consort House, which is dealt with in the application for conservation area consent).
4. that conservation area consent be granted for the works as described in the application for conservation area consent dated 11 September 2015 and on the detailed drawings and statements accompanying the application, subject to the conditions set out in Appendix 2.

DPEA case reference: TAWS04

The Scottish Ministers
Edinburgh

Ministers

In accordance with our minutes of appointment dated 26 November 2015 (for Karen Heywood) and 18 January 2016 (for Robert Seaton), we held, as directed, a public local inquiry on 8 days between 9 and 25 May 2016 into the Network Rail (Glasgow Queen Street Station) Order. The Order is sought by Network Rail under the Transport and Works (Scotland) Act 2007; and the inquiry was conducted in accordance with the Transport and Works (Scotland) Act 2007 (Inquiries and Hearings Procedure) Rules 2007. Applications for listed building and conservation area consent for associated works at Queen Street Station were also dealt with at the inquiry. Closing submissions were submitted by Archyfield Ltd on 20 June and by Network Rail on 24 June 2016.

We conducted accompanied inspections of the site and its surroundings on 8 March 2016 (internal areas of the station) and 26 May 2016 (external areas and the Millennium Hotel).

The object of the Order is to authorise the construction of works for the proposed redevelopment of Queen Street Station in Glasgow, together with the compulsory acquisition of land and interests and the temporary stopping up, alteration and diversion of roads in connection with those works.

In addition Network Rail is applying for a direction for deemed planning permission for the works authorised in the Order and for listed building consent and conservation area consent for associated works to listed buildings and the demolition of buildings in the conservation area.

Further environmental information was submitted by Network Rail on 12 April 2016. Comments on this information were submitted by Archyfield Ltd and Historic Environment Scotland and Network Rail responded to these comments. The report details these submissions.

Objections to the Order were originally made by:

- Archyfield Ltd/Millennium and Copthorne Hotels
- LS Buchanan Ltd
- Carlton George and Waxy O'Connor's
- Clydesdale Bank PLC
- Glasgow City Council
- New Look Retailers Ltd
- Purewal Properties

- Scottish Power Ltd, SP Distribution PLC and SP Transmission PLC
- Select Service Partner Ltd
- Spirit Pub Company (Lease) Ltd
- Strathclyde Partnership for Transport
- JD Wetherspoon PLC

On 14 January 2016 the Scottish Ministers issued a statement of the matters about which they particularly wished to be informed for the purposes of their consideration of the applications. We held a pre-inquiry procedure meeting on 28 January 2016, to which the applicants and the objectors were invited.

The following objectors withdrew or partially withdrew their objections before the inquiry:

- Archyfield Ltd/Millennium and Copthorne Hotels (partial withdrawal 17 May 2016)
- LS Buchanan Ltd (13 May 2016)
- Carlton George and Waxy O'Connor's (23 March 2016)
- Glasgow City Council (4 April 2016)
- New Look Retailers Ltd (12 April 2016)
- Scottish Power Ltd, SP Distribution PLC and SP Transmission PLC (1 April 2016)
- Select Service Partner Ltd (8 February 2016)
- Spirit Pub Company (Lease) Ltd (6 May 2016)
- Strathclyde Partnership for Transport (1 April 2016)
- JD Wetherspoon PLC (24 March 2016)

Although the representatives of Clydesdale Bank PLC have stated that agreement has been reached, the objection has yet to be withdrawn. This objector did not give evidence at the inquiry.

The objection by Purewal Properties has not been withdrawn but this objector did not give evidence in support of its objection at the inquiry.

In its closing submissions after the inquiry ended, Archyfield submitted a claim for expenses against Network Rail, who responded in their closing submissions. This matter is dealt with in a separate report.

Abbreviations

AQMA	Air Quality Management Area
CPO	Compulsory Purchase Order
EGIP	Edinburgh Glasgow Improvement Project
IAQM	Institute of Air Quality Management
ie	that is (<i>id est</i> – Latin)
GRIP	Governance for Railway Investment Projects
LSB	LS Buchanan
M	metre/s
NO ₂	Nitrogen dioxide
PM ₁₀	particulate matter of 10 micrometres or less in diameter
TAWS	Transport and Works Scotland Act 2007

CHAPTER 1: BACKGROUND

Site description

1.1 The site comprises all land within the site in respect of which powers are sought to carry out the proposed development including:

- land within the Order limits, delineated in blue on sheet 2 of the Order Plans (NR-5);
- the area within the land adjoining plot 1 on Order Plan sheet 2 which is the part of the land shaded grey on sheet 4 of the Order plans that is outwith the Order limits; and
- plots 2A, 2B and 2C also outwith the Order limits as shown on Sheet 2 of the Order plans.

This site is located at the north end of Queen Street in the city centre of Glasgow. The site is bounded by Cathedral Street to the north, Dundas Street to the west, West George Street and George Square to the south and North Hanover Street to the east.

1.2 Queen Street Station has a Category A listed train shed which spans the existing concourse and high level platforms up to the northern boundary of the site. Within the existing station concourse, there were formerly a number of food and retail outlets (see photographs at figures 3.3, 3.4 and 3.5, pages 24 and 25 of the environmental statement (NR-22)). Queen Street Station comprises a High Level Station and Low Level Station.

1.3 Pedestrian and vehicular access to the station can be gained through an entrance on North Hanover Street. At this entrance to the station building there was a taxi rank, drop off area and disabled access (figure 3.7, page 26 of the environmental statement (NR-22)). The North Hanover Street entrance also provides access to the station car park, which sits to the east of the train shed.

1.4 At the south-east corner of the site is the Georgian/Edwardian part of the Millennium Hotel. To the west of that is the 1970s extension to the hotel. The 1970s extension is five floors tall and spans the existing station frontage, station retail, the Queen Street entrance to the station and the taxi drop off area for the hotel (figure 3.1, page 23 (NR-22)). Camperdown Place public house is at ground floor level and is visible from outside the station. The first floor was previously occupied by Burger King, now vacated.

1.5 To the west of the 1970s extension of the hotel is Consort House, which is an eight floor 1960s office building built of concrete and clad in modular concrete cladding (figure 2.1, page 9 (NR-22)). Consort House is owned by Network Rail. A Sainsbury's store occupies part of the ground floor and first floor on the corner of West George Street and Dundas Street. Sainsbury's lease expires in May 2026. Boots the Chemist have premises at first floor level, the lease of which expires in November 2016. The northern wing of Consort House runs parallel to Dundas Street and extends over the station's Dundas Street entrances (figure 3.2, page 24 (NR-22)).

Project description

1.6 The proposed Order seeks powers to undertake the redevelopment of the concourse area of the High Level Station to deliver a new station building, new passenger and staff

facilities and improved passenger access and ancillary works. This will enable the operation of eight carriage length trains on the route between Glasgow and Edinburgh via Falkirk High. The Scottish Government has undertaken an analysis of capacity of this route. The existing six-carriage length trains would be replaced with eight-carriage length trains. This will alleviate the forecast overcrowding which would otherwise be experienced on peak services between Glasgow and Edinburgh.

1.7 Key to the introduction of longer trains is the lengthening of the High Level Station platforms at Glasgow Queen Street Station. The platforms will be extended to the north as far as practicably possible given the constraints of the High Level Station tunnel and the space required for the track serving each of the platforms. At the north end of the station, towards the tunnel, there is insufficient space to accommodate the platform length for the operation of the longer trains. This can only be achieved by extending the platforms southward too. Platforms 2, 3, 4 and 5 would be extended into the existing station concourse, requiring the relocation of the concourse further south towards West George Street/George Square on land and airspace previously occupied by station retail facilities, the Millennium Hotel 1970s extension and the Consort House office building. The southern extension of platform 1 requires the removal and relocation of the station facilities currently located on platform 1.

1.8 Network Rail considers that the demolition of Consort House and the Millennium Hotel extension is required in order to extend the platforms southward, to generate a column free 'buffer overrun zone', in line with Rail Safety Standards Boards standards (PD-37), to create a suitably sized concourse, and to provide a concourse with appropriate headroom, in line with Network Rail Guidance (PD-21).

1.9 Pedestrian flow analysis (NR-124) undertaken by Network Rail shows that Consort House, on the south west corner of the city block would also have to be removed. This allows for the significant westerly flow of passengers towards West George Street, Dundas Lane and the Buchanan Street Subway entrance.

Policy Background

1.10 The Planning Statement¹, which was submitted with the application for the Order, contains Network Rail's assessment of the proposed development against national, strategic and local planning policy. It is a useful checklist of the planning policies that apply in this case, which are listed below. Archyfield's Statement of Case does not add any additional policies.

National

- National Planning Framework 3²
- Scottish Planning Policy³
- Circular 6/2011 – Compulsory Purchase Orders⁴

Strategic

¹ [NR-14](#)

² [PD-84](#)

³ [PD-5](#)

⁴ [PD-28](#)

- Glasgow and Clyde Valley Strategic Development Plan 2012⁵

Local

- Glasgow City Plan 2 2009⁶
 - DEV 1 - Transport Infrastructure
 - DEV 5 – Retail
 - DEV 6 – Office
 - DES 1 – Design Principles
 - DES 2 – Sustainable Design and Construction
 - DES 3 – Protecting and Enhancing the City's Historic Environment
 - DES 6 – Public Realm and Lighting
 - TRANS 3 – Traffic Management and Traffic Calming
 - TRANS 5 – Providing for Pedestrians and Cycling in New Development
 - ENV 4 – Sustainable Urban Drainage Systems (SuDS)
 - ENV 5 – Flood Prevention and Land Drainage
 - ENV 15 – Energy
- Glasgow City Council Proposed Local Development Plan⁷
 - CDP 1 – The Placemaking Principle
 - CDP 2 – Sustainable Spatial Strategy
 - CDP 3 – Economic Development
 - CDP 4 – Network of Centres
 - CDP 5 – Resource Management
 - CDP 8 – Water Environment
 - CDP 9 – Historic Environment
 - CDP 11 – Sustainable Transport

1.11 Relevant Historic Environment Scotland policies on built heritage are as follows.

- Historic Environment Scotland Policy Statement June 2016 (replaced Scottish Historic Environment Policy⁸)
- New Design in Historic Settings⁹
- Managing Change in the Historic Environment¹⁰

1.12 Relevant national transport policies are listed below.

- Scotland's National Transport Strategy 2006¹¹
- Scotland's Railways¹²
- National Transport Strategy 2016¹³

The Order

⁵ [PD-52](#)

⁶ [PD-35](#) (Link to Part 1 of the plan on the DPEA website)

⁷ [PD-36](#) (Link to Part 1 of the proposed plan on the DPEA website)

⁸ [PD-89](#)

⁹ [PD-88](#)

¹⁰ [PD-90](#)

¹¹ [PD-1](#)

¹² [PD-2](#)

¹³ [PD-101](#)

1.13 The terms of the draft Order submitted by Network Rail have changed throughout the inquiry process in answer to questions raised by the Reporters and Archyfield and when errors have been corrected. The contents of the Order were explained by one of Network Rail's documents¹⁴, which is summarised in Chapter 2 below. In Network Rail's closing submissions the draft Order is described as "an evolving document".

1.14 The most recent version of the Order, which is the one considered in our conclusions and recommendations, was submitted on 1 July 2016¹⁵.

The application for deemed planning permission

1.15 The Town and Country Planning (Scotland) Act 1997 Section 57(2A) (development with government authorisation), as amended by The Transport and Works (Scotland) Act 2007 provides that:

"(2A) On making an order under section 1 of the Transport and Works (Scotland) Act 2007 which includes provision for development, the Scottish Ministers may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction".

1.16 Network Rail has applied for a direction under Section 57(2A) for deemed planning permission at the same time as applying for the Order. Deemed planning permission has been sought for the "scheduled works" as defined in the Order (Article 4 and Schedule 1). These comprise works to reconstruct and extend the Station as described on drawings listed in Schedule 1 of the Rule 8(6) Request for Planning Permission [NR-13].

1.17 Deemed planning permission in principle is also sought for "ancillary works" as defined in the Order (Article 5 and Schedule 2). These works originally included drivers' accommodation, sprinkler tank & pump set, substation, switchrooms, generator room and fuel store and are shown on submitted drawing Z0(PL)AP005 (NR-13/3). However, Network Rail will obtain consent for these elements of the ancillary development separately.

The applications for listed building consent and conservation area consent

1.18 Section 14 of the Transport and Works Act (Consents etc. under other enactments) provides for consents, other than those specified elsewhere in the Act, to be determined by Scottish Ministers at the same time as the order. The procedures to be followed in these cases are set out in the Transport and Works (Scotland) Act 2007 (Consents Under Enactments) Regulations 2007 (LD-7) (the Consents Regulations). Network Rail submitted a listed building application and a conservation area consent application to Glasgow City Council for aspects of the proposed works. These applications have now been referred to Scottish Ministers and, as enabled by the Consents Regulations, will be considered concurrently with the Order.

1.19 Listed building consent is being sought for those elements of the works which are "for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest", as

¹⁴ [NR-122 – Note on the scheme of the Order and its implementation](#)

¹⁵ [Revised Draft Order 1 July 2016](#)

required by Section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

1.20 The redevelopment would involve some minor physical alteration and attachment to the Category A listed Queen Street Station train shed. The main building of the Millennium Hotel is located to the south east of the station and is Category B listed. It is proposed to demolish the 1970s hotel extension. By virtue of its physical attachment to the listed hotel Glasgow City Council considers the extension to be part of the hotel listing. Consort House, dating from the 1970s, is an eight storey office block, with three storey section to its north, located to the south west of the station, with retail at ground level. By virtue of its physical abutment to the station and inclusion of a station entrance and station retailing, the council considers the office block to be part of the station listing, although Historic Environment Scotland does not. Network Rail agrees with Historic Environment Scotland in this regard. However, Network Rail has included the demolition of Consort House in the application for listed building consent in the event that Scottish Ministers consider it to be part of the station listing.

1.21 In the event that Scottish Ministers consider that Consort House is not part of the station listing, conservation area consent is also being sought for the demolition of Consort House, and the attached canopy. It was Historic Environment Scotland's view during pre-application discussions that Consort House is not part of the station listing. It is, however, within the City Centre Conservation Area and, as an unlisted building within the conservation area, conservation area consent would be required for its demolition.

1.22 A plan showing the listed buildings in the vicinity is at NR-164¹⁶. A plan showing the Order limits within the Glasgow Central Conservation area is at NR-165¹⁷.

¹⁶ [NR-164](#)

¹⁷ [NR-165](#)

CHAPTER 2: CASE FOR NETWORK RAIL

The rail industry in Scotland¹⁸

2.1 Network Rail is the not-for-dividend owner and operator of the majority of Britain's rail infrastructure. It is the infrastructure manager and its activities are regulated by the Office of Road and Rail. It operates under a network licence (NR-183). Network Rail maintains, manages, renews and enhances the network. It manages day to day use of the rail infrastructure but does not operate train services.

2.2 Under current rail legislation, railways are not wholly devolved and elements are reserved. Scottish Ministers are responsible for setting the strategy for rail in Scotland within the context of their overall integrated transport policies. Rail related objectives will be achieved through delivering the following practical, strategic railway services' outcomes:

- improving journey times and connections;
- reducing emissions; improving quality;
- accessibility; and
- affordability.

2.3 These themes are reflected in the specification of projects to be delivered by Network Rail.

2.4 Network Rail, Transport Scotland, the Office of Road and Rail and Network Rail's customers all play important roles in the rail industry in Scotland. Network Rail's income comes from three main sources:

- direct grants from Transport Scotland;
- charges for track access levied on the passenger and freight train operators that use the network; and
- income from commercial property.

2.5 Network Rail is obligated under its Network Licence to maintain, renew and enhance the network in accordance with best practice and in a timely, efficient and economical manner so as to satisfy the reasonable requirements of persons providing services relating to railways and funders. Network Rail's activities in Scotland include responsibility for the £742 million Transport Scotland funded Edinburgh Glasgow Improvement Programme (EGIP). EGIP is funded to be complete by the end of Control Period 5, which ends on 31st March 2019. If the works did not go ahead in Control Period 5 there is no guarantee funding would be available in Control Period 6. It would be necessary to take money from other projects, which means the financial consequences would not be limited to EGIP.

Edinburgh Glasgow Improvement Programme (EGIP)¹⁹

2.6 The line connecting Edinburgh Waverley and Glasgow Queen Street via Falkirk High, is the busiest passenger route in Scotland, and is a key component in Scotland's transport infrastructure. Queen Street Station is the third busiest train station in Scotland,

¹⁸ [Angus Robertson, precognition](#)

¹⁹ [Angus Robertson, precognition](#)

serving approximately 17.37 million passengers each year. Network Rail's plans for Queen Street Station will provide a station that can accommodate a doubling in passenger numbers by 2043 and these proposals form an essential part of EGIP.

2.7 The key elements of the original EGIP scope definition specified by Scottish Ministers in 2007 included:

- the electrification of the Edinburgh-Glasgow line;
- increasing the service frequency from 4 to 6 trains per hour, for trains of a maximum 6 carriage length; and
- fastest journey times between Edinburgh Waverley and Glasgow Queen Street Station of around 37 minutes, calling at Haymarket station only.

2.8 On 4 July 2012 a revised specification for EGIP was announced (NR 187). This involved:

- longer trains (8-carriage maximum);
- retaining the current 4 trains per hour service frequency; and
- delivering a new fastest journey time of around 42 minutes between Edinburgh and Queen Street Station.

2.9 Between July 2012 and September 2012 Transport Scotland's consultants Jacobs and Network Rail held a series of workshops to look at the detail of the revised proposals, which included the extension of platforms at Queen Street Station to 8-car length, and a revised track / station layout that required demolition of the Millennium Hotel 1970s extension and Consort House (NR-179).

2.10 Joint reviews with Jacobs and further development work demonstrated that the scope and cost of works necessary to deliver 8-car platforms at Queen Street would be greater than the initial Jacobs proposals. In addition, to demonstrate the works were being delivered on a good value for money basis and as an appropriate use of public funds, the station required to be optimised for EGIP and future operational needs (for trains and passengers) as far as was reasonable, yet still meet the specified completion date of December 2018.

2.11 EGIP infrastructure works required for 8-car Edinburgh to Glasgow services have been developed and are being delivered through the EGIP Alliance (Network Rail, Costain and Morgan Sindall), based on Jacobs' initial designs from 2012. These include lengthening platforms at intermediate stations (Croy, Falkirk High, Polmont and Linlithgow), at Edinburgh Waverley (platform 12) and at Glasgow Queen St (High Level).

2.12 Since February 2014 EGIP has engaged formally on the Queen Street design with affected parties, and gone through a process of public consultation as required by the TAWS process. Input from affected parties has been sought in order that the Queen Street design is optimised as far as possible to avoid impacting their businesses, while providing the best customer outcome for passengers using the station, and is fiscally responsible in terms of spending public funds.

2.13 The platform lengths proposed at Queen Street optimise the overall capacity at the station for EGIP services and for future longer, more frequent trains running to other destinations in Scotland. Key features include the central position of 8-carriage platforms 3

and 4, to provide the quickest and most reliable routes to / from Queen Street Tunnel. The provision of platform 7 as a third long platform enables a total of 7 8-carriage trains to be timetabled at Queen Street each hour, versus 4 per hour if only platforms 3 and 4 were extended.

2.14 Given current passenger loading levels and forecast growth, for example, on the Inverness and Aberdeen routes, it is likely that these longer distance routes will also require trains of the maximum length that Queen Street can accommodate. Therefore, the Scottish Ministers' decision to extend Queen Street platforms to accommodate 8-carriage sets as part of EGIP is a prudent strategy to future-proof the station for the long term (estimated 2049). It is preferable this is undertaken as a single project rather than in multiple phases, in order that the works are as efficient as possible and cause minimum overall disruption to passengers and businesses in the area.

2.15 The option of extending Queen St platforms to the north would involve excavation of up to 70 metres of the crown of Queen St tunnel and widening the tunnel approaches to allow the station throat to be relocated. Assuming an extension of Queen Street station of 70 metres to the north would result in a rebuild of around 30% of the existing Buchanan Galleries complex, the property related costs for this alone (including compensation) could be of the order of £100 million.

2.16 The direct costs of undertaking the quarrying, removal of Buchanan Galleries current piled foundations and sub-structure (and their replacement), creation of the enlarged station, revised track layout and signalling, plus external works on roads and bridges, have been estimated at around £250 million. It would be normal to add 60% contingency to a project of this nature at this early stage of development, resulting in a total figure exceeding £500 million (including Buchanan Galleries rebuild costs).

2.17 Given the magnitude of the costs and the scale of the works involved any option to extend Queen Street Station to the north was clearly neither practicable nor affordable. The impact on rail passengers would have been substantially higher than that proposed by EGIP works currently, and undertaking such a programme of works using a safe construction methodology would have extended beyond the end of 31st March 2019, thereby failing to deliver the outputs specified by Scottish Ministers.

Platform extension and the need for an overrun²⁰

2.18 Extension of platforms 3 and 4 provides for operational flexibility and efficiency, and ultimately reduces journey times. Trains making use of platforms/tracks on the outside of the station (platforms 1, 2, 5, 6, and 7) require to change tracks at the station throat onto the centre tracks in order to enter and exit the station. Changing tracks takes time as the train has to wait whilst other trains enter and exit. Trains entering and exiting the station on the central tracks (platforms 3 and 4) do not experience the same issues and, as a result, journey times are reduced. As the most frequent journeys from Queen Street station are those between Glasgow and Edinburgh it is sensible to accommodate those trains (as far as possible) on the centre tracks. The enhancement to platforms 3 and 4 will greatly enhance the flexibility of the station layout given the central location of these platforms. The lengthening of platform 4 is of particular benefit since it is accessible without the need to

²⁰ [Neil Hamilton, precognition](#)

use the tunnel crossovers, that is, its accessibility affords parallel moves for both arriving and departing services. This makes it particularly beneficial when capacity is stretched.

2.19 In order to minimise the need to extend the platforms southwards, platforms 3 and 4 will be extended northwards as far as physically possible. In order to extend platforms 3 and 4 northwards, it is necessary to completely remodel the track layout at the north end of the site, which involves shortening platforms 2, 5 and 6 at the northern end of the station. Platforms 3 and 4 will be extended northwards by 51 metres and 49 metres respectively. On completion of this first phase of alterations to the platforms at the northern end of the station (which began on 20 March 2016) the new platform layout will be as shown on the plan entitled “Key Output 1 Platform Layout” (NR-114).

2.20 In order to achieve the necessary platform lengths it is also necessary to extend the platforms southwards. Platform 1 requires to be extended southwards by 34 metres. Platforms 2, 3, 4 and 5 require to be extended southwards by 23.4 metres. The resulting platform layout is set out on the plan entitled Key Output 3 Platform Layout (NR-115).

2.21 Queen Street station was constructed on the site of a quarry, with the station occupying the space that had previously been quarried. The tunnel was carved into the rock with high retaining walls built in the cutting on the approach to the tunnel. Whilst the topography of the station itself is fairly flat, at the point the tracks enter the tunnel the track gradient begins to increase at an average gradient of 1:45 and continues to climb for a distance of around 1 mile to Cowlairs.

2.22 In order to extend the platforms northwards, beyond what is proposed, it would be necessary to widen the station throat and the tunnel itself. Part of the Buchanan Galleries shopping centre (specifically the multi-storey car park and pedestrian link bridge) occupies the space immediately above the tunnel. When the multi-storey car park was built a support structure for the building was created by installing piles onto the rock immediately behind the retaining walls. As a result, in order to widen the cutting at all, it would be necessary to remove these supports, necessitating the removal of the multi-storey car park.

2.23 Buchanan Galleries has obtained planning permission for a redevelopment scheme which assumes the existing support structures remaining in situ. Buchanan Galleries had proposed to remove the multi-storey car park and to build further retail space above the north cutting. The new structure would require the existing piled support structure to remain in place as well as the installation of further piles onto the rock. As such, the scheme previously proposed (and for which planning permission has been granted) would not be possible if the tunnel was to be widened.

2.24 Even if it was possible to remove the support structures behind the retaining walls and the multi-storey car park, any extension of the tracks and platforms would require to be on the same grade as the station due to the complex nature of the track layout in the station throat. This would involve re-boring the existing tunnel on the same grade as the station for a distance sufficient to accommodate the extended platforms, and then continuing to bore further upwards to meet the existing tunnel. Any alteration to the size or general alignment of the existing tunnel would necessitate extensive engineering works, result in severe disruption to the station and the travelling public as the station would require to be closed for a significant period of time. This would also be prohibitively expensive. As a result, Network Rail did not consider the extension of the platforms northwards in any detail as it was simply not a viable option.

2.25 The proposed southwards extension of platforms 2, 3, 4 and 5 would cause the existing buildings (the retail units situated at the south of the station concourse and the 1970s extension to the Millennium Hotel) to come within the 20 metre overrun risk zone as defined by Railway Group Standard GI/RT7016 (PD-40) entitled 'Interface between Station Platforms, Track and Trains'.

2.26 This standard states that new structures, including buildings and columns supporting canopies shall not be located within the overrun risk zone extending 20 metres behind the face of the buffer stop and 5 metres either side of the projected centre line of the track approaching the buffer stop (known as the 'overrun risk zone'). In addition, alterations to an existing structure or track layout (which includes lengthening platforms) shall not cause a structure that is outside the overrun risk zone to come within the zone. As a result, it is not permissible to extend the platforms southwards whilst leaving the 1970s extension in situ and within the 20 metre overrun risk zone. There is no possibility of reducing the length of the platforms proposed. To do so would mean reverting back to the shorter and more frequent trains option, which has already been considered and dismissed.

2.27 Archyfield suggests that the overrun risk zone could remain clear of the 1970s extension by repositioning the northern row of columns to the extension and making alterations to the first floor. Even if this was physically possible from a structural engineering perspective (which is far from clear), it would be necessary to ensure that the distance between the station concourse and the soffit of the extension (where cut back) was sufficient to take account of the height of an average train (around 3.9 metres) together with an allowance for the unpredictable movement of the train in a collision. It is suggested that a minimum distance of 5 metres would be appropriate. It is not clear from the information provided by Archyfield what the distance between the concourse and the soffit of the extension would be in the scenario suggested by them.

2.28 Even if it was possible to create a 20 metre structure free overrun zone in this way, the consequence would be that in the area between the end of the overrun risk zone and the station frontage on West George Street, the distance between the concourse and the soffit of the 1970s extension would be around 2 metres. This would fall far short of what would be reasonably required to enable the area to be used as station concourse.

2.29 If it was possible to use the area beneath the 1970s extension as station concourse and create a structure free 20 metre overrun risk zone, the repositioned columns of the extension would be positioned just outside the overrun risk zone. This would not remove the risk of a train overrunning the buffer and hitting the structure. There is always the risk of a train hitting a buffer at much higher speeds than the 20 metre zone is designed for, with the train coming to a halt outwith the zone. If a train was to overrun the buffer stop and hit one of the repositioned columns of the 1970s extension, the consequences could be catastrophic. There would be a real risk of the building collapsing onto the concourse area below, with significant loss of lives. Network Rail would not consider creating such a high risk situation.

2.30 Archyfield also suggests that it would be possible to remove the entire first floor of the 1970s extension, providing an open concourse through to the street. Even if this was possible this would again create the risk of a train hitting one of the structural columns, causing the potential progressive collapse of the remaining two floors of the 1970s extension onto the concourse below.

2.31 The buffer stop risk assessment process is quite complex. Table A5 of document PD37 RSSB Recommendations for the Risk Assessment of Buffer Stops, Arresting Devices and End Impact Walls details the factors affecting buffer stop risk. It is important to note that one of factors, the distance of the occupied area from the buffer stop face, does not terminate at 20 metres from the buffer stop it goes up to 100 metres. Professional judgement must be used in the risk assessment process and a conservative approach should be taken when there is a high risk to passengers of an overrunning train.

2.32 PD09 – Guidance on Interface between Station Platforms, Tracks and Trains sets out the means to determine the increased risks associated with the use of a frangible deck behind the buffer. Appendix A on page 55 indicates that the risk weighting factor for the Network Rail proposal (no structure in the zone) is 0. If the hotel extension is left where it is the risk weighting factor would be 200. The same risk factor would apply event if the first floor of the extension was removed. Network Rail undertook no risk assessment of the Millennium Hotel proposals shown in document MH6 as any scenario where a structure would be at risk of collision is totally unpalatable. Similarly with the proposals shown in MH19 – moving the columns 1 metre to the right would not remove them from risk of collision.

Pedestrian flow and the design of the building²¹

2.33 A passenger survey was carried out at the station in March 2013, to establish new up to date passenger demand baseline data for the station. In addition to establishing the volume of passengers passing through the station during the peak periods (15,000 and 16,000 during the morning and afternoon/evening peak 3-hours respectively), it also confirmed the passenger origin-destination patterns at the station. The data confirmed that the majority of passengers (approximately 70%) using the High Level platforms exit the station to the west via Dundas Street during the morning peaks and enter the station from the west during the evening peaks.

2.34 It was observed that during the afternoon/evening peak the concourse is relatively busy as passengers accumulate on the concourse waiting for their platform to be announced. Although train services were generally running according to schedule during the survey, it is easy to predict that any significant disruption to train services is likely to lead to a very congested and uncomfortable concourse.

2.35 It was also noted that the platforms at the station typically operate at relatively busy levels following the arrival of peak loaded trains. These congestion levels are both a function of the train passenger demand and the platform widths. Although these congested periods on the platforms are reasonably short-lived and typical of terminus stations, they occur with regular frequency – generally following the arrival of most peak loaded trains. This in turn dictates the strategy adopted by the station operator to hold passengers arriving to board trains on the concourse to allow those passengers alighting trains to clear the platform first; i.e. to keep the platforms clear of waiting passengers while the platforms clear. It is anticipated that the increase from 6-carriage to 8-carriage trains will increase the alighting demand on the platforms, further necessitating the strategy of holding boarding passengers on the concourse in the future.

²¹ [Ian Emslie, precognition](#)

2.36 The passenger data obtained from the survey was used in the subsequent pedestrian capacity assessment and simulation modelling of the proposed scheme to determine the appropriate station requirements with respect to the concourse size, platform widths, ticket gates and entrance widths.

2.37 Two future year scenarios for passenger growth were considered: 2026 and 2049. The 2026 growth forecast was obtained from Network Rail's Route Utilisation Strategy and predicted an approximate 40% increase in passenger demand at the station. Later, Network Rail extended the design year for the station redevelopment to 2049, based on a 3% increase per annum beyond 2026. The subsequent modelling assessment of the proposed station design was based on this 2049 growth scenario, and sought to confirm that the new station layout would provide sufficient capacity to accommodate the anticipated passenger demand levels up to 2049. Capping this increase in passenger demand based on the capacity of the train services to and from the station during this period (i.e. the increase in demand is limited by the capacity the trains are able to deliver) results in an expected increase of between 75% and 95% on the projected 2026 demand levels. Overall, the capped 2049 growth forecast represents a 160% increase in 2013 passenger levels.

2.38 The pedestrian capacity assessment for Queen Street Station has been carried out in accordance with Network Rail's Station Capacity Assessment Guidelines (PD-21). These guidelines provide the appropriate planning criteria and standards to be applied to ensure the design of a fit-for-purpose, safe, comfortable and resilient station environment for passengers. The Queen Street Station capacity assessment covered the following four key scenarios:

- morning peak, normal operations – trains running according to schedule;
- evening peak, normal operations – trains running according to schedule;
- train perturbation – a disruption or delay to trains service at the station; and
- emergency evacuation – all passengers within the station to be evacuated.

2.39 At terminus stations such as Queen Street, the typical operational strategy is to hold passengers on the concourse before announcing their platform, to allow the alighting passengers from incoming trains to clear the platform first and to prevent overcrowding on the platforms. Abellio ScotRail Limited currently operate the station based on this strategy, and, given the expected increase in train loadings resulting from 8-carriage trains, will need to continue to adopt this strategy. The concourse area is driven by the requirement to accommodate the accumulation of passengers waiting on the concourse at acceptable levels of service. Concourse size is of particular importance during disruption to train services, where the accumulation of passengers can be significantly higher.

2.40 Based on Network Rail's guidelines, the station requires a concourse area of 810 square metres and 1412 square metres in 2026 and 2049 respectively. The proposed development would provide a concourse area of approximately 1510 square metres. The concourse also needs to make allowance for passenger circulation, gateline run-off areas and queuing at concourse facilities. Furthermore, the effective passenger accumulation area is driven by where the passengers are able to view the customer information screens.

2.41 Taking the above into account, there is little leeway between the required and provided concourse area in 2049, and the concourse is expected to be operating close to capacity by that date. Under severe train disruption scenarios it is possible appropriate

service levels could be exceeded, and an appropriate contingency crowd management strategy would be required.

2.42 The recommended minimum concourse headroom is 7 metres. The gateline requirements for the station have been calculated for both the 2026 and 2049 growth scenarios, and the development of the proposed option has taken these requirements into consideration. The proposed development provides a gateline with the required capacity to accommodate the 2049 passenger demand levels.

2.43 A preliminary static assessment of the initial layouts proposed was undertaken, based on the 2009 passenger demand and two growth scenarios of +25% and +50%. This provided an early indication that, at the very least, the removal of Consort House and the 1970s bedroom wing extension of the Millennium Hotel would be required to provide a suitable concourse with sufficient capacity.

2.44 The preliminary static assessment was followed by a pedestrian simulation modelling assessment, firstly of two short-listed options, and subsequently of the final preferred option. The modelling assessment was based on the 2013 passenger demand, applying the 2026 and 2049 growth scenarios. The pedestrian modelling assessment demonstrated the following:

- removal of the 1970s extension would be required to provide an appropriate concourse area and space for the station to operate at acceptable service levels;
- although in the short term (2026) the station could be made to work whilst retaining Consort House, in the long term Consort House would need to be removed in order to create an appropriate concourse area for the station. Removing Consort House would allow better connections to the west (Dundas Street) and south west (West George Street), responding to the main passenger flows at the station; and
- removal of the Millennium Hotel was not required to achieve provision of the concourse area requirements.

2.45 Overall, the modelling indicated that the proposed option provides the appropriate level of capacity and best station configuration to meet the projected passenger growth for the station, given the constraints of the site. They show that the concourse would be operating close to capacity by 2049, and that there are likely to be crowding issues associated with significant train disruption scenarios, but as with most major stations, this would need to be dealt with through the adoption of an appropriate crowd management contingency plan.

2.46 In response to Archyfield, Network Rail considers that retaining the 1970s extension in its entirety (all three levels) would prevent the provision of an adequately sized and configured concourse to meet the station's requirements. The headroom beneath the extension building would be inadequate for a station concourse environment of this size and would be unlikely to meet minimum headroom requirements. The area beneath the extension would therefore be unusable as part of the concourse. The resulting concourse would be fragmented, poorly configured and too small.

2.47 Considering a modified version of the 1970s extension as proposed by Archyfield, it is unclear whether the resulting headroom would meet Network Rail's minimum headroom

requirement of 7 metres for a concourse of this size (PD-21). Nonetheless, the low ceiling height and the supporting columns and escape stairs structure would be likely to compromise the performance of the concourse, create obstructions to pedestrian circulation and sightlines, and impair natural wayfinding and impact on the customer information strategy and provision for the station. A solution designed around retaining all or part of the 1970s extension would be a sub-standard compromise solution that would waste this opportunity to provide a station environment befitting of Queen Street Station. Network Rail considers that the proposed development offers the best station layout design from a pedestrian capacity and circulation perspective, given the constraints of the site.

2.48 Archyfield suggests that there could be derogation from the 7 metre height requirement (Bernard Hulland precognition, paragraph 4.4). Network Rail agrees that professional judgement should be used in the application of the guidelines in PD-41. However, a non-compliant height should not be the starting position. If there is an option which complies with the guidelines that is the option that should be chosen.

Environmental impact assessment²²

2.49 Given the city centre location of Glasgow Queen Street Station, it is inevitable that the concourse redevelopment works would interact with other schemes. From an environmental perspective, interaction with other schemes was considered as part of the cumulative effects assessment of the environmental statement and environmental statement addendum.

2.50 The environmental impact assessment was undertaken in July and August 2015. Its scope was informed by discussions between the Transport Scotland TAWS Unit and Network Rail. The topics included in the scope of the environmental statement are as follows:

- air quality;
- noise and vibration;
- cultural heritage / historic environment;
- visual amenity / townscape;
- traffic management and access, including road closures; and
- impacts on rail passengers.

2.51 The methodology of assessment was different for each environmental topic but all followed best practice or recent precedents and were developed in consultation with relevant parties. Similarly, the criteria for determining whether environmental effects were significant was specific to each discipline.

2.52 The measures proposed to be taken in order to avoid, reduce and, if possible, remedy any significant adverse effects on the environment of the proposed works were recommended within each topic section in response to significant adverse effects. If the recommended mitigation options were to be implemented, the majority of effects would become 'Not Significant' or 'Beneficial' across all topics. Adverse effects would remain in relation to built heritage but these would be throughout the demolition and construction programme only and thus would be temporary in nature. A non-technical summary of the information provided was submitted as a separate document.

²² [Fraser Maxwell, precognition](#)

2.53 A cumulative effects assessment was completed. As there is no prescribed methodology to follow when completing cumulative effects assessments, a unique methodology was created that was deemed to be suitable in terms of location and scale of the proposed development. This methodology was discussed and agreed with Glasgow City Council.

2.54 Only major and national developments within a 350 metre catchment area were considered in the cumulative effects assessment, as well as any development that intersected the redline boundary. Different topics have different distances: air quality – 350 metres; noise – 300 metres; built heritage – 200 metres. Other smaller or local developments were not included as they are not considered to contribute to significant cumulative impacts. It was Network Rail's understanding that the Buchanan Galleries development as granted was no longer being pursued. As such, this development was excluded from the cumulative effects assessment within the environmental statement.

2.55 The demolition of the perimeter wall of Glasgow Queen Street Station and alterations to the engine shed roof and demolition of existing buildings in the North Hanover Street car park were considered in the original list of developments to be included in the cumulative effects assessment. These planning applications were made by LS Buchanan and were required to enable the construction of the multi-storey car park in North Hanover Street. Following the removal of the Buchanan Galleries redevelopment from the cumulative effects assessment, these demolition works were also removed.

2.56 However, following the announcement in early 2016 from LS Buchanan that the redevelopment of Buchanan Galleries was now intended to go ahead in two phases, the development has now been assessed in the environmental statement addendum, in addition to the demolition works in North Hanover Street car park.

2.57 The original TAWS Order would enable Network Rail to take temporary possession of the Millennium Hotel for the duration of the proposed development works. This would result in the closure of the hotel throughout this period, thus ensuring that construction of the hotel proposal could not occur at the same time as the concourse redevelopment and could not give rise to cumulative construction effects. It was therefore assumed that the Millennium Hotel would remain closed whilst the 1970s extension is demolished, starting in January 2017 for a period of 7 months.

2.58 Archyfield do not currently have the property rights required to undertake the proposed extension of the Millennium Hotel to the north. It needs to come to a commercial agreement with Network Rail to acquire air rights to enable the project to move forward. Thus Network Rail has a controlling interest in the hotel development which cannot proceed until a commercial agreement has been reached between Archyfield and Network Rail. The Millennium Hotel planning application was thus excluded from the original cumulative effects assessment.

2.59 However, following Archyfield's objection to the hotel closure, Network Rail has now reached a mutual agreement with Archyfield to allow the hotel to remain operational during the construction programme. As such, the environmental statement addendum is based on that assumption. This is the option currently proposed in the latest draft Order and Archyfield has withdrawn that part of its objection relating to the temporary occupation of the hotel by Network Rail.

2.60 Track slab works are part of preparations to deliver faster, longer and greener trains at Glasgow Queen Street High Level and thus increase the capacity of the network. These works were completed by 8 August 2016. The concourse redevelopment works are due to commence in October 2016. As such, the construction of the two projects would not be concurrent and would not give rise to cumulative construction effects.

2.61 The environmental statement and the addendum included an assessment of the proposed development on station users. The assessment primarily focussed on the differences between how stakeholders use Glasgow Queen Street Station now, and how they would use the station during demolition, construction and operation of the new station layout. Changes in accessibility, station facilities and journey ambience were considered. Following the implementation of mitigation, all residual effects from demolition and construction are considered 'Not Significant'. All effects in relation to the operation of the station are considered 'Significant Beneficial' and thus no mitigation options were required. Scot Rail, as the operator of Glasgow Queen Street Station, did not raise any objections in relation to the conclusions of the environmental statement station user assessment.

2.62 The only new effect identified by the Addendum was the removal of the Millennium Hotel's existing servicing area at North Hanover Street car park, based on the assumption that the Georgian section of the hotel would remain fully operational throughout the proposed development works. However, because the hotel would be able to continue to be serviced from George Square, the effect is considered not significant.

2.63 In conclusion, the environmental statement assessment and findings are competent and thorough. Robust mitigation was recommended where required and the correct conclusions were made, subject to the environmental statement addendum submitted in April 2016. The addendum reflects new circumstances or information that has arisen since the TAWS Application was made in September 2015. It reports any material changes to the assessment made in the main environmental statement. Network Rail's clarification about the environmental assessment of the cumulative impacts of the construction of the electricity substation, fire sprinkler tank and staff accommodation building in the North Hanover Street car park is summarised towards the end of this chapter.

TAWS consultation requirements²³

2.64 Consultation in connection with an application for a TAWS Order must comply with the Scottish Government's Technical Guide to the Transport and Works (Scotland) Act 2007 (PD-26). This sets out the Scottish Government's understanding of the statutory provisions and the principles underlying them and represents the Scottish Ministers' view as to how the TAWS procedure is to be operated. An applicant should comply with the Technical Guide or be able to provide a justification for departing from it.

2.65 The Technical Guide states that pre-application consultation should be wide and thorough and is a crucial part of the TAWS authorisation process. The guide also recognises that consultation may take many forms, from informal discussions to public meetings, leaflets and websites, and that the consultation process does not lend itself to a rigid regulatory approach.

²³ [Alison Gorlov, precognition](#)

2.66 Categories of consultee that are particularly relevant to this case are:

- relevant statutory bodies, which will include the local authority in its capacity as planning authority;
- residents;
- owners, tenants and occupiers of land that is to be subject to compulsory acquisition; and
- owners and occupiers of affected land that is not subject to compulsory purchase.

Consultation and engagement²⁴

2.67 Ahead of the launch of the wider public consultation process, contact had already been made with key stakeholders and affected parties and information had been shared and discussed. The pre-consultation put these parties on a different consultation track than general consultees. This engagement does not preclude them from submitting formal submissions to the wider public consultation.

2.68 Within the wider consultation, stakeholders and affected parties are communicated with and treated equally to all other parties, consultees and contributors, and their responses and views are given the same treatment and weighting in this process. All responses are reviewed and the views put forward considered fully in the process.

2.69 Network Rail recognises that major redevelopments such as that proposed need to take into account a number of views and opinions and reflect the needs of a wide range of station users and stakeholder groups in order to be worthwhile.

2.70 Network Rail delivered a programme of consultation that follows best practice guidance and was proactive, inclusive, informative, open and transparent. The intention of the consultation process was to:

- share information with those identified as being affected by or interested in the proposals;
- give members of the general public the opportunity to have their say;
- gather feedback from the general public for consideration in shaping the final design proposal; and
- offer the opportunity for continuing engagement.

2.71 Programme managers and representatives from Network Rail's planning, sponsors, property and technical project development team met every two weeks to discuss and progress various issues around the project. Inputs received from the consultation were shared informally with this group and fed into the planning and development process. A second meeting, also on a two week cycle, was held which included representatives from the project architects, the train operating company and a range of consultants in relation to traffic management, pedestrian flows as required and on an ad hoc basis. Key inputs from the consultation were also shared with this group on a rolling basis.

2.72 Public consultation was carried out in two phases; 24th February to 31st May 2014 (Phase 1) and 30th September to 23rd December 2014 (Phase 2) and was largely focussed in Queen Street station. The phased approach enabled sufficient time to gather and review

²⁴ [Owen Campbell, precognition](#)

submissions from Phase 1 to inform and amend the proposal in Phase 2. During both these periods consultation activities included advertising within Queen Street station on-train, outdoor advertising on the nearby subway station and in station leafleting. It was supported by direct mail, media advertising and public relations, web and social media, public drop in events (held in the Millennium Copthorne hotel) and radio advertising campaigns.

2.73 In addition to the programme of proactive communication and advertising, a series of meetings with statutory consultees, communities, stakeholder groups, interested parties and elected members took place. This will continue throughout as the project develops and is delivered.

2.74 The consultation was designed to be informative, inclusive and accessible to all stakeholder groups. Proactive media / advertising activities all carried out a range of response methods whereby interested parties could engage with comments and questions and how to respond formally to the consultation. This included:

- dedicated project web page;
- social media – Twitter feed;
- dedicated email; and
- telephone helpline.

2.75 The results of the Phase 1 consultation were compiled and a report containing inputs and comments was published ahead of the Phase 2 consultation. A similar report was published at the end of Phase 2. From these reports key recommendations were made to inform the evolving proposals for the redevelopment of the station.

2.76 The range of consultees included:

- passengers;
- residents and communities in the immediate area;
- businesses likely to experience and impact from the construction works;
- parties who will be materially impacted upon, including property owners and tenants;
- statutory consultees required to be consulted under the Application's rules; and
- other interested groups.

2.77 Network Rail received around 90 responses to Phase 1 of the consultation and around 60 responses to Phase 2. Responses which fell within the parameters of the consultation are reflected in the consultation report (NR-7). On the whole, responses to both Phase 1 and Phase 2 moved from being general and high level to becoming more specific and focussed on operational details. Purewal Properties and their tenants did not make any responses to either Phase 1 or Phase 2.

2.78 Network Rail has continued its programme of communication and stakeholder engagement since the submission of the TAWS Order application. Delivery of the construction phase of the project will be supported by a comprehensive communications and stakeholder engagement programme.

2.79 In response to criticisms made by Archyfield and LS Buchanan, Network Rail points out that the consultation exceeded the requirements of what would be considered an appropriate and proper level of consultation in the context. The consultation and the TAWS

process serve to protect the interests of affected parties and stakeholders and afforded an opportunity for the wider public to engage fully in informing the proposals to redevelop the station. Phases 1 and 2 of the consultation informed the development of the proposals with the intention of shaping the final TAWS order application. It was never part of the process to offer a third period of consultation ahead of the submission of the TAWS order application, nor is there any requirement to do so. Any objection to the final proposal is enabled by the TAWS inquiry process.

Nature of the TAWS process and Order content²⁵

2.80 The TAWS process is a legislative one. Unlike, for example, an application for planning permission it leads to the making of a TAWS Order, which is a Scottish Statutory Instrument having the same force as an Act of the Scottish Parliament. The process therefore involves the consideration of a draft Order that the Scottish Ministers are being asked to make. They will have to decide whether the infrastructure project proposed in the Order (in this case transport infrastructure) should be implemented. The underlying policies on which the decision will be based are therefore transport policies. In this case the decision will be as to whether the proposals in the Order adequately give effect to the policy plans for that redevelopment.

2.81 The application for deemed planning permission is made alongside the TAWS application and is an adjunct to it. The decision on that application must, therefore, be made in the context of the infrastructure policy decision on the Order.

2.82 TAWS Orders set out primary powers in relation to the infrastructure they authorise and must, therefore, meet the same standards as any other Scottish legislation. The function of legislation is simply to express legal propositions and a TAWS Order should therefore state only those things for which legal powers are required; and do so in terms that set out the principle of the power and if appropriate the machinery for its implementation but not the minutiae of how each legislative provision is to be put into practice. This format adheres to a legislative drafting standard that is the scheme of legislation throughout Great Britain and of which there are many examples relating to railways, including Scottish railways.

2.83 The Order is expressed in terms that state legal principles (e.g. a power to construct) without specifying detailed implementation (e.g. phasing) or stating any justification. The nature of the legislative drafting standard referred to in paragraphs 4.10 and 4.11 of Ms Gorlov's original precognition is not, therefore, a matter of drafting style: it flows from the function of the Order, which is to express legal propositions. This means that the Order is simply a statement of legal principles authorising specified things e.g. the construction of works and the compulsory acquisition of land. Two principal things follow:

2.84 First, as the Order is a statement it sets out the legal provisions but does not say anything about how they are justified. Justification must be given, but that is a matter for the evidence before the Inquiry. The Order itself has no evidential value, except as demonstrating what the applicant (in this case Network Rail) seeks to achieve. This is the basis on which all UK legislation proceeds.

²⁵ [Alison Gorlov, precognition](#)

2.85 Second, the Order sets out the things that need to be legally authorised because, if they were not so authorised, they could not legally be done (e.g. compulsory purchase (art. 16) or safeguarding buildings (art. 14) or would risk an adverse result (e.g. action for nuisance attributable to the construction or operation of infrastructure). The Order also includes any necessary supporting procedures which need to be certain to safeguard rights (for example the procedures in Schedule 5 governing the way the art. 14 powers are to be exercised). The Order does not set out how the detailed implementation of these legal powers will be carried out because such details do not require legal powers. The Order itself is only there to provide for those things for which new law is necessary.

2.86 That is not to say that justification and implementation details are ignored. They form part of the TAWS application. It is just that, quite properly, they are not on the face of the Order. Justification is provided in the evidence given in support of the Order. Implementation details are in application documents, in particular in the environmental statement, including the Code of Construction Practice, which Network Rail proposes should be enforceable by way of planning condition.

2.87 Sometimes it is possible for a provision to be specific. So, for example, Network Rail was able to identify the specific traffic regulation arrangements that will be needed. This made it possible to limit the traffic regulation powers in Article 11 to just three categories. Had this not been practicable the power would have to have been expressed in more general terms e.g. as relating to a specific area or areas. By contrast, Article 14 (Safeguarding works to buildings) is dealing with the need to protect and make good any buildings that might be endangered by the authorised works, which of its nature means that the article cannot specify all the affected buildings to which it might relate.

The scheme of the Order and its implementation²⁶

2.88 The Order has separate parts for different packages of provisions:

- (a) Part 1 sets out some preliminary “machinery” in the shape of detailed interpretation of certain words and expressions and the application of necessary statutory codes.
- (b) Part 2 contains all the provisions concerning the carrying out of the proposed works.
- (c) Part 3 is a set of provisions regarding the compulsory acquisition of land and rights over land, and the exercise of other compulsory powers in respect of land.
- (d) Part 4 contains miscellaneous provisions that are necessary to complete the provisions, such as protective provisions for statutory undertakers and powers of entry for British Transport Police.

2.89 Part 1 – Article 2 (Interpretation) sets out words and expressions that carry some particular meaning. Article 3 applies a body of legislation in the Railways Clauses Acts. These Acts, the Railways Clauses Consolidation (Scotland) Act 1845 (LD-48) and Railways Clauses Act 1863 (LD-49) comprise a set of standard provisions for the construction of railways. They were model clauses that have to be applied to the individual railway enactments to which they relate. They provide a useful suite of provisions that are necessary when building railway infrastructure and they are still incorporated with new railway legislation.

²⁶ [NR-122](#)

2.90 Part 2 is concerned with the practical powers that Network Rail needs to carry out the works and operations authorised by the Order (“the authorised works”). These are generally standard provisions that have been amended as necessary to fit the particular circumstances of the Queen Street station concourse redevelopment (“the Project”) to be authorised by the Order.

2.91 Article 4 provides the powers necessary to carry out the works specified in Schedule 1 to the Order (“the scheduled works”). This comprises (a) the demolition of Consort House, the 1970s extension of the Millennium Hotel and the existing canopy adjoining the station entrance in Dundas Street and (b) the development of a new station building within the area shaded green on sheet 4 of the Order plans.

2.92 Article 5 authorises the construction and maintenance of ancillary works. These are works, of the sort that are described in Schedule 2, that are necessary or expedient for the purposes of, in connection with or in consequence of the construction, maintenance or use of the scheduled works. Ancillary works may also be other works that are necessary or expedient for the purposes of or ancillary to the construction and maintenance of the authorised works (i.e. those in Schedules 1 and 2). The ancillary works may be constructed anywhere within the Order limits.

2.93 The rule 8(6) application (NR-13) seeks a direction for deemed planning permission for the scheduled works. In the case of the ancillary works the general nature of the works is ascertainable from Schedule 2 but not the specifics of what is to be constructed, so all that is sought in the case of the ancillary works is planning permission in principle.

2.94 Article 6(1) is a power to create or to improve accesses to or from any public road within the Order limits. This will enable Network Rail to move kerbs and install drop kerbs and similar works, subject to the approval of the roads authority. Article 6(2) enables Network Rail to provide temporary means of access to Glasgow Queen Street Station from either or both the east and west side of the station along specified streets, and to provide associated signage.

2.95 Article 7 is a power to make use of any road or public place within the Order limits without having to acquire the land or rights over it. The powers extend to the subsoil under and airspace over the land in question and the article permits certain operations to be carried out. This provision allows for affected roads to be used as temporary work sites and for similar purposes (Dundas Street is an example of an area where this power would be used). It can be used in conjunction with the power to take temporary possession of land (article 20) and temporarily to stop up or otherwise interfere with the use of roads (article 10). Consistent with this approach, article 9 removes the need for the consent of the roads authority for works and excavations in roads and the deposit of builders’ skips on the road.

2.96 Where road works are to be carried out e.g. to lay new apparatus, Article 8 applies the street works code in the New Roads and Street Works Act 1991 (LD-47). This is done on the basis that certain road works carried out under the Order are to be treated as major works for roads purposes.

2.97 Article 10 permits temporary road closures, alterations and diversions for construction purposes. It will apply to all the roads within the Order limits and the two additional lengths of road mentioned in Schedule 3 to the Order. Although this allows for

closure and preventing people from passing along the road, pedestrian access to adjoining premises must be maintained. This power to make the equivalent of temporary traffic regulation orders ensures that Network Rail can direct the traffic away from streets that may be used as work sites.

2.98 Further traffic regulation is needed to enable construction traffic to get to and from the site via the bus gate in Nelson Mandela Place, to enable road space in Dundas Street to be used from time to time by mobile cranes and to mitigate the effect of the temporary closure of Anchor Land by providing space for service vehicles in St Vincent Place. That is all provided in Article 11 and Schedule 4.

2.99 Article 12 operates when temporary possession of land is taken under article 20. If there are private rights of way over the land Network Rail needs to have the ability to suspend them if necessary for the purposes of the authorised works. In addition, while Anchor Lane is closed (which will be when all four lanes of West George Street are closed), rights of way over Citizen Lane must also be suspended because it, too, uses West George Street as its exit route.

2.100 Article 13 is related to the conduct of a building site. Water will need to be discharged and the site must drain. This article specifies the basis upon which Network Rail may use drains and watercourses. Article 14 is another 'building works' provision. It permits Network Rail to carry out safeguarding works (e.g. underpinning) to buildings which may be affected by the authorised works. In this way Network Rail can reduce adverse effects, if possible by preventing damage and also alleviating it or making good. Provision is made for the payment of compensation, whilst Schedule 5 prescribes the way in which the powers under this article may be exercised, including a power of entry and provision for landowners to go to arbitration over proposals they do not agree to.

2.101 The latest version of the Order no longer disapplies the requirement for Network Rail to obtain a building warrant, under section 8 of the Building (Scotland) Act 2003 [LD-44], in relation to the exercise of the powers of the Order. As Article 15 of the original draft Order has been deleted and subsequent Articles have been renumbered accordingly, the Article numbers in the following paragraphs refer to the most recent draft Order submitted on 1 July 2016.

2.102 Part 3 of the Order contains the compulsory powers over land that Network Rail requires in order to carry out and maintain the authorised works. The time limit on the exercise of these powers is five years from the coming into force of the Order. Article 15 incorporates the Acts that provide the procedure for compulsory acquisition. They only apply to compulsory purchase powers to the extent that they are specifically applied, i.e. applied by this article. Their incorporation with the Order means that compulsory acquisition under the Order will be on the same basis as other compulsory purchase in Scotland.

2.103 Article 16 confers powers on Network Rail to compulsorily acquire the land specified in Part 1 of Schedule 6 for the purposes of the redevelopment of Queen Street station. Article 17 enables Network Rail to acquire less than outright ownership of land affected by article 16 in cases where that is all that is required. The Lands Clauses Acts, as incorporated by article 15, are modified so as to take account of the acquisition of servitudes and other rights. Network Rail has established that there is land where it knows it only requires rights. Article 18 specifies land in which Network Rail may acquire no more

than new servitudes or other new rights and the land over which temporary rights may be acquired. This land is specified in Parts 2 and 3 of Schedule 6.

2.104 Article 19 authorises Network Rail to take temporary possession of the land specified in Schedule 7 for the purposes specified in column (4) of that Schedule and also of land within the Order limits as regards which the compulsory purchase process has not been triggered. The land that has been identified already is the land coloured turquoise on Sheet 2 of the Order plans (NR-5) and the roads coloured grey.

2.105 The powers of temporary possession extend to removal of apparatus, buildings or vegetation from the land and the construction of temporary works and buildings on it. Unless the owner agrees otherwise, Network Rail may not remain on this land for more than one year after the completion of the authorised works. And, before giving up possession, it is required to remove all temporary works and restore the land to the reasonable satisfaction of the owner. The requirement to restore does not apply to (a) a building removed under this article, (b) works connected with boundary walls adjoining the authorised works or (c) underpinning or strengthening works carried out under the Order. Compensation is payable for loss or damage arising from the temporary possession.

2.106 Article 20 enables Network Rail to acquire only part of certain types of property where this can be done without material detriment to the rest of the property and, in the case of a park or garden attached to a house, without also seriously affecting the amenity or convenience of the house. It sets out a process whereby the landowner may serve an objection within 28 days, objecting to the sale of part only of the land and it sets out the procedure that Network Rail must follow when dealing with an objection. Where Network Rail does not agree to take the whole land as specified within the objection, it must refer the question as to what land the owner shall be required to sell to the Lands Tribunal for Scotland and notify the objector. The Lands Tribunal must consider the referral as set out in Article 21. Where there is a partial acquisition under Article 21 Network Rail must, in addition to paying compensation for the value of any interest in land acquired, also pay compensation for any loss resulting from severance of the land.

2.107 Articles 22 to 26 are concerned with compensation where Network Rail has exercised compulsory powers. Article 22 provides that in assessing any compensation payable under the Order, interests and certain enhancements are to be disregarded if the Lands Tribunal is satisfied that they were created or undertaken with a view to obtaining compensation or increased compensation. Article 23 provides for compensation to be reduced by an amount equivalent to any enhanced value of adjoining or nearby land belonging to the person seeking compensation, when the enhanced value of that land is as a result of the authorised works. Article 25 provides that compensation is not payable for the same matter under both this Order and other statutory, legal or contractual compensation provisions. Article 26 applies to land which is the subject of a general vesting declaration (see Article 32) and imposes a time limit for making compensation claims of two years from the date on which Network Rail served notice of the making of a general vesting declaration on the claimant.

2.108 Article 27 allows Network Rail to enter upon land to survey and investigate it and to make trial holes. It includes provision for the payment of compensation. Article 28 permits entry on land before completion of acquisition upon Network Rail giving 28 days' notice to the owner and occupier of the land. Article 29 enables people who would otherwise be legally disabled from selling anything less than an outright interest in land to grant to

Network Rail servitudes or other rights for the purposes of the Order. Article 31 provides that the three year limit on the life of a notice to treat under section 78 of the Planning and Compensation Act 1991 applies to any notice to treat served under this Order.

2.109 Article 32 allows the vesting of land in Network Rail by way of declaration. This is an established alternative procedure to that available in the case of compulsory purchase orders under section 195 of and Schedule 15 to the Town and Country Planning (Scotland) Act 1997. The application of this procedure will enable Network Rail to execute one or more general vesting declarations so as to vest in itself any of the land, servitudes or rights which it is authorised to acquire. The applied provisions include a detailed procedure for giving notice to affected landowners. These articles accordingly provide a rule book governing the use of compulsory purchase and compensation for the purposes of the Order.

2.110 Part 4 contains miscellaneous and general provisions. Article 33 provides that servitudes or other rights imposed under the Order powers will benefit land from time to time held by Network Rail for the purposes of its railway undertaking, thus avoiding any difficulty arising as a result of the application of section 75 of the Title Conditions (Scotland) Act 2003 [LD-45] (which requires a deed to be registered). Article 33(2) provides that a servitude created by the Order will be effective whether or not it is registered against the benefitted property in accordance with section 75 of the Title 2003 Act.

2.111 Article 34 deals with situations where actions cannot be taken until consultation has taken place or an approval of the sort listed in article 34(2) has been approved. The relevant procedures are not subject to time limits. Because this is a public interest project running to an exceptionally tight timetable, Network Rail is anxious that there should be a degree of certainty in the timing of these procedures. Article 34 accordingly provides for this by setting out precise timetables. In addition to the procedures identified in Article 34(2), this timing can apply to any other application related to the authorised works where Network Rail and a consenting body agree that the timetable is to apply.

2.112 Article 35 provides for the protection of statutory undertakers' apparatus in land that is acquired or in a stopped up road. Article 36 provides for protection of specified undertakers, operators of electronic communication code networks and the Millennium Hotel. The protective provisions, which are set out in Schedule 9, are intended to have effect unless the parties agree otherwise. They provide variously for 'lift and shift' and the provision of alternative apparatus, financial protection and continued access and, in the case of the Millennium Hotel, the separation works and mitigation works.

2.113 Article 37 prevents Network Rail from carrying out any controlled activities as defined in regulation 3 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 without first obtaining and then complying with authorisation under those regulations. Article 39 applies section 106 of the Title Conditions (Scotland) Act 2003 (LD-45) to any land compulsorily acquired under the Order. The effect is to extinguish any real burden or servitude affecting the land on registration of the conveyance of that land. It also provides for the suspension of real burdens or servitudes on land subject to temporary possession powers.

2.114 Article 40 provides Network Rail with a defence to proceedings under the Environmental Protection Act 1970 for statutory nuisance in respect of noise emissions generated by the redevelopment and use of Glasgow Queen Street Station. The defence applies where the works are carried out in accordance with notice served under section 60

of the Control of Pollution Act 1974 or prior consent given under section 61 of that Act. The defence also applies where it is shown that the noise is consequent on the construction, maintenance or use of the redevelopment and that it cannot reasonably be avoided.

2.115 Article 41 provides for copies of the Order plans to be certified by the Scottish Ministers as true copies that may be used as evidence in any proceedings, so avoiding any need to prove their veracity. By way of example, the plans that would be produced to Registers of Scotland would be certified copies. Article 42 provides for the land used by Network Rail for the redevelopment of Glasgow Queen Street Station in accordance with the planning permission granted for the implementation of the Order to be treated as Network Rail's operational land.

2.116 Article 44 lays down the procedure where the Order provides for disputes to be settled by arbitration and the parties do not agree to adopt some other dispute resolution procedure. This article does not apply to disputes (e.g. relating to compensation) to which the Lands Clauses Acts apply (which are dealt with by the Lands Tribunal). Article 44 enables Network Rail to make rules for the preparation, verification and validation of any notice or other document served by it or on its behalf (called an "Order document"). An Order document that is validated in accordance with such rules is deemed to be valid without further proof. Article 46 enables the British Transport Police to enter without warrant land of which Network Rail may take temporary possession or to enforce any provision made by Network Rail in relation to a stopped up road. This land would otherwise be outside their jurisdiction.

How the compensation code is applied²⁷

2.117 Part 3 of the Order confers powers for compulsory purchase of land and rights and land uses required to implement the Order. For fairness these powers must be on the same basis as any other compulsory purchase in Scotland. The relevant procedural rules and other provisions are known as the 'compensation code' but this is in fact a body of law contained in several Acts of Parliament and in case law. Article 15 applies the relevant Acts as if they were included in the Order. This has the effect that this body of law will form part of the Order so that the Order will provide for the same level of protection and rules as to compensation as apply to compulsory purchase generally. The Order makes a number of adjustments to the incorporated Acts for the purpose of streamlining the 19th century procedures so as to bring them more nearly into line with the more modern legislative improvements that have been made in England and Wales, but not in Scotland, and also to allow for the greater flexibility provided for in the Order.

Compulsory acquisition and uses authorised by the Order²⁸

2.118 The plots referred to in the paragraphs below are shown on Sheet 2 of the Order plans (NR-05)²⁹.

2.119 Plot 1 – The Order would authorise permanent acquisition. The plot encompasses approximately 11,083 square metres of land comprising part of Queen Street railway station (Upper and Lower), Sainsbury's, Boots, Consort House, part of the hotel premises comprising the Millennium Hotel, all other facilities, plant and equipment within the land and

²⁷ [Alison Gorlov, precognition](#)

²⁸ [Alastair Camelford, precognition](#)

²⁹ [Original Order Plans](#)

parts of the public footways fronting George Square, West George Street and Dundas Street. Network Rail is the heritable proprietor of this plot and there are a number of lessees, four of which objected to the Order (Select Service Partner Limited, JD Wetherspoon PLC, Scottish Power Distribution PLC and Archyfield Limited). Permanent acquisition powers are sought for this plot so that Network Rail can acquire all existing leasehold interests as well as any other historic interests that may be found to exist. The redeveloped station would be located in Plot 1.

2.120 Consort House was the subject of a long lease to Strathclyde Partnership for Transport (SPT). Network Rail has acquired SPT's long lease by voluntary acquisition.

2.121 The tenancy interests within Plot 1 previously held by Select Service Partner Limited (Starbucks, Upper Crust, Bonapartes Bar and Burger King) and W H Smith Retail Holdings Limited were terminated by the landlord, ScotRail. All premises were vacated on 18th March 2016. Those previously held by Costa Limited and AMT Coffee Limited were terminated and vacated on 17th March 2016. JD Wetherspoon PLC, holders of the tenancy interest within Plot 1 for Camperdown Place public house, has been served with a termination notice by Network Rail [NR-34]. The JD Wetherspoon PLC interest in Plot 1 will cease when the tenancy expires on 3rd October 2016.

2.122 Plots 2A, 2B and 2C (as shown on Sheet 2B)³⁰ – These three plots together represent approximately 10% of plot 2 as originally shown on Sheet 2 of the Order plans (NR-5). The Order would authorise the temporary possession of these plots. These plots encompass portions of the Georgian part of the Millennium Hotel directly adjacent to the 1970s extension. Plots 2A, 2B and 2C are proposed for temporary use for the purposes of disconnecting and separating the 1970s portion from the Georgian portion of the Millennium Hotel and also for the construction of new exterior walling to separate the Georgian building from the new station building.

2.123 Plot 3 – The Order would authorise the permanent acquisition of rights for the installation and maintenance thereafter of a vehicle restraint system. The plot encompasses approximately 11 square metres of land comprising the solum of the pavement on the north side of part of George Square, and the solum of part of the service entrance to the Millennium Hotel and Queen Street Station. A Threat, Vulnerability and Risk Assessment for the redevelopment of Queen Street Station was carried out and identified the need to protect the station entrance at George Square from vehicle incursion. This document is not publicly available for security reasons. Powers are therefore sought in the Order for rights to erect and maintain security bollards in the footway external to the station to act as a barrier to a vehicle-borne terrorism attack.

2.124 Plot 4 – The Order would authorise the permanent acquisition of rights for the installation and maintenance thereafter of a vehicle restraint system. The plot encompasses approximately 16 square metres of land comprising the solum of the pavement on the north side of part of George Square and the solum of part of the service entrance to the Millennium Hotel and Queen Street Station.

2.125 Plot 5 – The Order would authorise the temporary closure of the road and use of this land temporarily to assist with the construction of the Order works. The plot encompasses approximately 2 square metres of land comprising the solum of the pavement on the north

³⁰ Amended Order Plans

side of part of West George Street, lying to the west of the service entrance to the Millennium Hotel and Queen Street Station. The plot is located directly adjacent to the station frontage, thus its use to enable construction of the works is essential.

2.126 Plots 6, 7 and 13 (West George Street/George Square) – The Order would authorise the use of this land temporarily to assist with the construction of the Order works. Plot 6 encompasses approximately 485 square metres of land comprising part of West George Street (south of the centre line of the road). Parts of plots 7 and 13 are also within West George Street and would be affected in the same way as Plot 6. There would be a need to close parts of West George Street at certain times. In particular:

- (a) Closure of the whole carriageway West George Street to vehicular traffic between Dundas Street and Queen Street would be necessary during demolition of the upper floors of Consort House (4 weeks). This methodology allows for the most expeditious and safe demolition process in accordance with the project programme.
- (b) During this period it may also be necessary to close all or part of the carriageway of West George Street from Dundas Street to Buchanan Street/Nelson Mandela Place so that the only vehicles in West George Street are construction or other vehicles connected with the site.
- (c) Throughout the construction period it would be necessary to close the two northernmost lanes of the carriageway to vehicular traffic between Dundas Street and George Square so that the only vehicles immediately adjoining the work site are construction or other vehicles connected with the site.
- (d) Throughout the construction period it would be necessary to close the northern footway of West George Street as a safety measure.
- (e) Part of this land would be used to facilitate the construction of the new Station entrance in George Square.
- (f) The southern footway of West George Street would remain open to pedestrians at all times.

Without the temporary possession of this land it would not be possible to demolish Consort House in the manner currently proposed or to operate the station and surrounding roads safely as a work site.

2.127 Plot 7 – The Order would authorise the temporary use of this land temporarily to assist with the construction of the Order works. The plot encompasses approximately 1,286 square metres of land comprising: (i) the pavement and roadway on the east side of parts of the lower section of Dundas Street, (including part of the station canopy at the Dundas Street entrance to Queen Street Station); (ii) the pavement on the north side of parts of West George Street, and George Square; (iii) part of the service entrance to the Millennium Hotel; and (iv) parts of West George Street, (north of the centre line of the road) and George Square, (excluding any subterranean levels). This plot would be used for the duration of the construction programme to enable construction of the Order works. The remaining parts of Plot 7 would be used to facilitate the construction of the new station entrance in Dundas Street and the construction of the new station building.

2.128 Plot 8 – The Order would authorise permanent acquisition of part of the pavement on the north side of West George Street.

2.129 Plot 9 – The Order would authorise the use of this land temporarily to assist with the construction of the Order works. The plot encompasses approximately 11 square metres of land comprising part of the pavement on the north side of West George Street. The plot is located directly adjacent to the station frontage.

2.130 Plot 10 – The Order would authorise the permanent acquisition of rights for the installation and maintenance thereafter of a vehicle restraint system. It encompasses approximately 17 square metres of land comprising part of the pavement on the north side of West George Street.

2.131 Plot 11 – The Order would authorise permanent acquisition of part of the pavement on the north side of West George Street to form part of the new station building.

2.132 Plot 12 – The Order would authorise permanent acquisition of rights for the installation and maintenance thereafter of a vehicle restraint system on part of the pavement on the east side of the lower section of Dundas Street and North side of West George Street.

2.133 Plot 13 – Plot 13 would authorise the use of this land temporarily to assist with the construction of the Order works. The plot encompasses part of the solum of Dundas Street Lower and part of the solum of West George Street to the north of the centreline of the road. The western half of this plot would be used to form part of a 6 metre wide pedestrian footway for pedestrians traversing Dundas Street. The remainder of the plot would be used first as space to enable the demolition of Consort House and secondly as space to enable the construction of the new station building.

2.134 Plot 14 – The Order would authorise the use of this land temporarily. The plot comprises footway on the west side of the lower section of Dundas Street and on the north side of West George Street. It would be used to form part of the 6 metre wide pedestrian footway mentioned above. Pedestrian access to the premises on Dundas Street and West George Street adjoining Plot 14 would be maintained at all times.

2.135 Plot 15 – The Order would authorise the permanent acquisition of this land. The plot comprises part of the pavement on the east side of the lower section of Dundas Street, (including part of the station canopy at the Dundas Street entrance to Queen Street Station). This land would form part of the new station building.

2.136 Plot 16 – The Order would authorise the temporary use of this land. The plot comprises part of the former site of 13 to 19B Dundas Street (including part of the station canopy at the Dundas Street entrance to Queen Street Station and Dundas Lane entrance to Buchanan Street underground Station). This plot would be used on a temporary basis for the siting of a mobile crane, compound space and access for construction. Its use to enable construction works is essential.

2.137 Plot 17 – The Order would authorise the acquisition of temporary rights to oversail Plot 17 during the construction period. The plot comprises part of the former site of 13 to 19B Dundas Street at the east end of Dundas Lane. There are no plans to make any

physical alterations to this plot. The oversailing is required to facilitate the erection of the station building as materials for the new building would pass over the airspace in this plot.

2.138 Plot 18 – The Order would authorise the use of this land temporarily. The plot comprises part of the former site of 13 to 19B Dundas Street at the east end of Dundas Lane. This plot would be used on a temporary basis to ensure continuing pedestrian access to Dundas Street via Dundas Lane during construction.

2.139 Plot 19 – The Order would authorise the permanent acquisition of rights for the installation and maintenance thereafter of a vehicle restraint system. It comprises part of the pavement on the east side of the lower section of Dundas Street (including part of the station canopy at the Dundas Street entrance to Queen Street Station).

2.140 Plot 20 – The Order would authorise the acquisition of temporary rights to oversail Plot 20 during the construction period. The plot comprises part of the upper section of Dundas Street, together with hardstandings (part of Charing Cross railway tunnel/Queen Street Low Level railway station beneath) lying generally to the south or southeast of the Buchanan Galleries, 220 Buchanan Street. There are no plans to make any physical alterations to this plot. The oversailing is required to facilitate the erection of the station building, as materials for the new building would pass over the airspace in this plot.

2.141 Plot 21 – The Order would authorise the acquisition of temporary rights to oversail Plot 21 during the construction period. This comprises steps linking the upper and lower sections of Dundas Street. There are no plans to make any physical alterations to this plot. The oversailing is required to facilitate the erection of the station building as materials for the new building will pass over the airspace in this plot.

2.142 Plot 23 – The Order would authorise the acquisition of temporary rights to oversail Plot 23 during the construction period. It comprises pavement lying on the East side of the upper section of Dundas Street adjacent to Numbers 32 to 50 Dundas Street. There are no plans to make any physical alterations to this plot. Materials for the new building would pass over the airspace in this plot.

2.143 Plot 24 – The Order would authorise the acquisition of temporary rights to oversail Plot 24 during the construction period. The plot comprises the shops and takeaway restaurant premises with flats above numbered 32 to 50 Dundas Street. Materials for the new building would pass over the airspace in this plot. In addition, the Order would authorise the acquisition of rights to construct the authorised works adjoining the plot and connected fixings, flashings, and alterations of adjacent walls and the construction use and maintenance of joint roof drainage. The existing roof at 34 Dundas Street, which overhangs the Low Level Station cutting, requires to be removed to permit construction of the new station building and a roofing connection between the two buildings requires to be fitted. These works would ensure both the new station building and the adjoining Dundas street property are kept wind and watertight and suitably drained during and post construction. Both the Dundas Street terrace of shops at Plot 24 and the station already share joint a roof drainage system, which would be modified as part of the Order works.

2.144 Plot 26 – The original Rule 8(6) application for deemed planning permission sought planning permission in principle for the construction of essential facilities for the station. These facilities (NR-13) comprised accommodation for train staff, a fire safety sprinkler tank and an electrical sub-station to replace the sub-station currently located in Consort House.

The plot comprises the railway station car park and associated buildings. The plot also houses the electrical sub-station which serves the station. However, Network Rail has now removed these three items from the scope of the deemed planning consent sought in the Rule 8(6) application. They will progress consent for these works separately with the council and have amended the Rule 8(6) application and the planning drawings.

Interaction with other schemes – Archyfield³¹

2.145 The specific Order proposals in relation to Plot 26 (the station car park adjoining North Hanover Street) originally comprised the construction of staff accommodation, a sprinkler tank and an electricity sub-station. The sub-station will replace the Scottish Power sub-station currently located at Consort House, which presently supplies the Camperdown Place Wetherspoon Free House and the Millennium Hotel. All these facilities are essential to the continuing operation of the redeveloped Station. They would be located on land wholly owned by Network Rail, on Plot 26. However, it is now intended that planning permission for these elements will be sought separately from the Order and the Rule 8(6) application.

2.146 Archyfield contends that the proposed development frustrates its development authorised by planning application 14/02813/DC (NR-98). This development includes a new block to the rear of the existing Georgian portion of the Millennium Hotel, which would extend into the airspace of Plot 26 and require support from the ground. Implementation of the Archyfield development would be dependent upon Network Rail agreeing to grant airspace rights and a basis on which the building could be supported. Network Rail has control over the land required by Archyfield to undertake this development. Archyfield does not have the right to implement the proposed development as it does not have a commercial agreement with Network Rail for the use of this land. A plan showing the boundary of Archyfield's planning permission and how that boundary overlaps with the car park area owned by Network Rail and the planning permission obtained by LS Buchanan is lodged as document (NR-185).

2.147 Network Rail has engaged with Archyfield during development of the Queen Street Station redevelopment project and also regarding Archyfield proposals for a scheme to redevelop the Millennium Hotel. These discussions have not progressed, as it was not possible to reach an agreement on the value on the 1970s extension. Network Rail is prepared to continue to engage with Archyfield and has explained that in order for Network Rail to consider an alternative scheme involving Network Rail owned land to the rear of the hotel, there requires to be agreement on the compensation value payable for the 1970s extension to allow betterment costs to be calculated.

Traffic and transport matters³²

2.148 In order to facilitate the safe and efficient construction of the project, the TAWS Order proposals contain a number of elements related to traffic and transport. The nature of the changes sought can be summarised as follows:

- (a) West George Street: temporary stopping up of West George Street (all lanes) is required between the junctions with Dundas Street and Queen Street for a period

³¹ [Alastair Camelford, precognition](#)

³² [Alan DeVenny, precognition](#)

of 1 month and for two further periods of 48 hours each. The two northernmost lanes are then required to be closed for approximately 23 months.

(b) Anchor Lane / Citizen Lane: temporary stopping up of the Anchor Lane carriageway is required along with the suspension of private vehicular rights of way over Citizen Lane. The period of stopping up and suspension of private rights of way is indicatively for 1 month and for two further periods of 48 hours each.

(c) Lower Dundas Street / Dundas Lane: temporary stopping up of all lanes of the carriageway and most of the footway on the east side of Lower Dundas Street.

(d) Upper Dundas Street: a length of the carriageway has been designated as a place where mobile cranes and an associated delivery area may be placed.

(e) St Vincent Place: a parking area for service and delivery vehicles is proposed on the north side of St Vincent Place at the south end of Anchor Lane, fronting 12 - 16 St Vincent Place.

(f) Nelson Mandela Place: the TAWS Powers seek the suspension of the Bus Gate Traffic Regulation order at the entrance to Nelson Mandela Place.

2.149 The environmental statement predicted that there would be no significant residual effects associated with traffic and transport following the implementation of mitigation measures that would include a Traffic Management Plan. This prediction was in relation to the environmental effects associated with additional traffic generated by the redevelopment works. The Framework Traffic Management Plan (NR-21) identifies mitigating strategies to address the impacts of road proposals (a - f). These are outlined below. This is a framework document and needs fleshing out once a contractor is appointed.

(a) West George Street

- pedestrian movements would be unaffected by the stopping up of all four lanes and the two northernmost lanes, with the exception of a section of the northern footway (between Lower Dundas Street and Queen Street) which would be out of use;
- cyclists would be affected by the stopping up of all four lanes and would be required to utilise alternative routes;
- two bus stops would be out of use during the demolition / construction period. One bus stop would be temporarily relocated to the west of its current location and could accommodate bus patrons displaced from the out of use stops. Alternatively bus patrons could utilise other bus stops. During the closure of all four lanes, no buses would be able to access the station. Buses would be required to utilise alternative routes. During the closure of the two northernmost lanes, buses would continue to utilise West George Street but using alternative bus stops;
- during the stopping up of the two northernmost lanes of West George Street, the existing taxi rank is likely to be shortened. During the stopping up of all four lanes the taxi rank would be out of use and taxis and taxi patrons would be required to utilise alternative ranks;
- in the event of an emergency and during the temporary stopping up of all four lanes, emergency vehicles may continue to access West George Street properties;
- general traffic would be diverted to alternative routes during the temporary stopping up of all four lanes.
- during the temporary stopping up of all four lanes, properties which front West George Street would be required to make alternative arrangements for deliveries. It would be possible to put traffic management measures in place to allow delivery vehicles to enter the area between Buchanan Street and Lower Dundas Street. This

would be limited to essential servicing for larger vehicles with the majority of activity being from Buchanan Street; and

- refuse vehicles required to service West George Street properties would have to collect refuse from Buchanan Street.

(b) Anchor Lane / Citizen Lane

- pedestrian movements would be unaffected;
- cyclists would be required to utilise alternative routes;
- general traffic would be diverted to alternative routes;
- delivery and refuse collection vehicles would park in an identified location (TAWS Order road proposal (e)). In addition, access to Anchor Lane would be controlled by a banksman (Traffic Management Options Project Note – NR-120). It would be possible to allow smaller service vehicles to access the area via the controlled access point.

(c) Lower Dundas Street / Dundas Lane

- pedestrian access to properties and pedestrian and cycle access to the station would be maintained;
- emergency vehicle access to Lower Dundas Street and Dundas Lane would be maintained;
- deliveries to properties on Lower Dundas Street would only be possible on foot. Deliveries could be made from Buchanan Street via Dundas Lane (which is pedestrianised and has a level gradient with no kerbs). These deliveries would be restricted to the times associated with the existing Buchanan Street Traffic Regulation Order. Alternatively, deliveries could be made from West George Street as per the proposals contained within the Traffic Management Option Note (NR-120), except when all four lanes of West George Street would be stopped up.
- no alterations are proposed to the existing waste storage and recycling area in Lower Dundas Street / Dundas Lane. However, bins would need to be collected from Buchanan Street (via Dundas Lane).

(d) Upper Dundas Street / Dundas Steps

- the temporary placement of a mobile crane and associated delivery area is not anticipated to significantly affect pedestrians and vehicle movements at Upper Dundas Street. Advance warning of the placement of the crane would be provided to local businesses and measures taken to minimise any inconvenience through construction timing e.g. outwith business hours.

(e) St Vincent Place

- parking places for delivery vehicles are proposed on the north side of the road at the south end of Anchor Lane. Existing car parking at this location would be suspended.

(f) Nelson Mandela Place

- vehicles associated with the project would be able to use the bus gate without restriction.

2.150 In order to execute the construction of the development, it would be necessary to implement a number of traffic management measures (including temporary stopping up of roads). While these measures would bring about some local traffic and transport impacts, these can be minimised through the identified mitigation measures and the city centre would continue to operate in an acceptable, safe and coherent manner.

2.151 Significant recent consultation has taken place with Glasgow City Council. The traffic management measures and changes to traffic signals during the construction stage have now been agreed. Bus diversion routes have been agreed with SPT. Further consultation will take place with the Glasgow Taxi Association.

Design and architecture³³

2.152 Glasgow Queen Street Station is located in the heart of Glasgow and lies within the Merchant City character area of Glasgow Central Conservation Area. At the heart of the site is the Category A Listed train shed. Consort House is on the south west corner of the city block and the south east corner of the city block is occupied by the Millennium Hotel. The hotel's 1970s extension obscures the hotel's original west elevation and also obscures the south elevation of the train shed.

2.153 Queen Street is generally considered to be a commuter station with the greatest pedestrian movement at either end of the working day. The majority of users move west out of the station. The west and east entrances to the station are the most accessible. The south facing entrance is accessed via a shadowy undercroft beneath the bedroom wing of the hotel. It is particularly uninviting and, as the concourse is around 3 metres above the level of George Square, this approach has steep pavements, steep stairs and an uncompliant ramp. The west side of the station provides the ticket office and one of two entrances to the low level station. The east side of the station provides left luggage, lost property, a waiting room and the station toilets, which are not accessible by current standards.

2.154 Consort House, the Millennium Hotel extension and the retail facilities beneath and the ancillary administrative functions to the west side of the station were constructed during the late 1960s/early 1970s and are of a dated and generally poor or utilitarian appearance. All front onto the adjacent streets (the Millennium Hotel extension and retail units below front onto the northwest corner of George Square) and effectively conceal the station within the local cityscape. At street level the station is only made visible through the use of corporate signage.

2.155 Taken in combination with the physical requirement to create a much larger concourse area to the south of the extended platforms, it is considered that the full demolition of these buildings would provide the space necessary to accommodate the increased passenger numbers passing through the station. Moreover, it would also create the opportunity to significantly improve the legibility and accessibility of Queen Street Station within the context of George Square and the heart of the city.

2.156 The concourse currently provides no clues as to its prime location. The station is located on a constrained site and is a poor gateway to the city. It lacks any civic quality

³³ [Edward Dymock, precognition](#)

internally and any civic presence externally. The redevelopment of the station for the Edinburgh – Glasgow Improvement Project creates an opportunity to address this. The proposed development would create clear routes across the concourse to the station's entrances, improve visibility of the Buchanan Street Subway, create a significant entrance facing George Square and improve connections to the low level station. Entrances would be located on the direct routes users would naturally wish to take. The proposed development improves accessibility by offering a choice of stairs, a ramp and a lift on its principal entrances.

2.157 A safe and functional concourse is critical to the success of the proposed development. The design of the new concourse focuses on maximising concourse area, optimising flows through the gate line and promoting the functionality of the concourse environment. For example, as waiting customers would naturally stand within sight of the main customer information screen its location has been carefully considered to ensure that waiting customers would not impede flows through the gate line. The performance of the proposed concourse was tested using computer based pedestrian modelling.

2.158 Facilities for the public at concourse level would remain limited due to the constrained site. A ticket office and waiting room and retail unit would be positioned to benefit from the highest footfalls on the west side of the station. Additional public accommodation would be located beneath the main concourse. This includes left luggage, lost property and the station toilets. Staff areas would be located on upper floors.

2.159 Developing an appropriate response to the Category A Listed train shed was the key to determining the form that the new station should take. The quality of the train shed has been compromised by the incremental 'modernisation' of the station. Many parts of the structure are now obscured by parts of other buildings. The design intent is to allow the structure of the train shed to be revealed once more.

2.160 As visibility of the shed does contribute to the perception of the building as a rail terminus, retaining an awareness of the train shed was seen as an appropriate response to the site. A dramatically shaped roof over the new concourse would guide the eye to a new sloping clerestory window, providing views of the gable of the train shed, from within the new concourse. The clerestory window would be repeated on the west side of the train shed to create a common relationship to the listed structure. The cantilevered roof would signal the public nature of the building. The southern facade would lean back to emphasise this. The deep central section of the roof would hide the significant structure that would allow the creation of a column-free concourse and would provide lateral restraint to the shed's gable.

2.161 The proposed development takes cues for its scale from its immediate neighbours. This provides the south elevation with a civic scale whilst the Dundas Street elevation transitions from the smaller scale of the Dundas Street terrace to its north to the grander scale of the new concourse. The materials proposed for the station's elevations outside are Jura limestone, granite, glass and anodised aluminium. Jura limestone has been selected to match local blond sandstones and provide a civic quality. The soffit of the roof would be clad in a gold/bronze coloured anodised aluminium panel. The warm tones of the material are intended to create an inviting interior.

2.162 The Design & Access Statement (NR-16) explains the rationale of the design of the proposed development in terms of the broad principles set out in Scottish Planning Policy,

2.163 The Millennium Hotel has never been part of the station. The station and the hotel are separate buildings under separate ownership and management. Each has its own fire systems and fire escape procedures. Therefore, the fire strategy required for the station's redevelopment requires a new fire rated wall to be built close to the project boundary. Rather than build the fire rated wall immediately up against the gable of the hotel the design locates the new wall approximately 2.5 metres from the hotel's gable. This aids constructability, ensures the historic fabric of the hotel gable can be repaired and improves the visibility of the hotel's gable from the street. For fire strategy reasons it is also necessary to block up the existing windows in the west elevation of the original hotel building. Although the proposed station wall opposite the Georgian building's western façade would be fire-rated, the space between the hotel and the station would be part of station property. Fire and smoke entering this space from the Georgian building would be likely to cause damage to the station. Smoke would be detected by the station's smoke detection system. The proposal of infilling the hotel windows has been made to reduce these risks, including the risk that a fire in the hotel would cause the station's evacuation. A building warrant would not be granted where there were unprotected openings directly on a boundary.

2.164 The redevelopment of the station creates opportunities to enhance the station's relationship to local built heritage including the Category A Listed train shed; the adjoining Category B Listed Millennium Hotel and, although not listed, the adjoining terrace on Dundas Street. Built heritage would be appropriately addressed with the following strategies:

- retention of all original parts of the train shed structure;
- expression of the Category A Listed train shed as the significant structure within the site;
- increase in the visibility of the train shed from within the station;
- new structures that might compete visually with the structure of the train shed would be avoided;
- an appropriate urban response to the train shed would be made;
- appropriate physical connections to the train shed would be created;
- the Millennium Hotel's formal relationship to George Square would be reinforced;
- an appropriate physical connection to the hotel would be created;
- appropriate repairs to the west gable of the hotel would be completed following demolition of the 1970s bedroom wing; and
- appropriate physical connections to the Dundas Street terrace would be created.

2.165 The existing urban form and the importance of the both the Category A Listed station and Category B Listed Millennium Hotel within the wider local context have been key drivers in informing the design of the proposed development. In terms of the broad guidance provided in New Design in Historic Settings (PD-88), under the design approach adopted the general principles intended to act as prompts to guide successful design in historic settings have all been taken into consideration.

2.166 Archyfield's proposal to retain part of the 1970s bedroom wing would not provide a functioning concourse. Archyfield considers it is not necessary to demolish the entirety of the 1970s extension to the hotel. It is suggested that the structure of the hotel could be

adapted by Network Rail to allow the upper two floors of that extension to be retained. However, moving the structure to a location just south of the 20 metre Overrun Risk Zone, as proposed by Archyfield, would result in unacceptable levels of risk in the event of a train crashing through the buffers.

2.167 Removing part, or all, of the first floor of the 1970s extension and repositioning the northern row of columns as suggested would create an environment that is unsuitable for a concourse. The retained and relocated columns would create obstacles to pedestrian movement, views would be obstructed, the siting of the main departure board would be problematic and the concourse area would be reduced. There would be little civic quality and no sense of arrival in Glasgow. Archyfield's alternative proposals compete with the language of the Category A listed train shed.

2.168 Criticisms by Archyfield do not align with the views of Historic Environment Scotland (HES), which has been supportive of the design proposal's relationship to the Category A listed train shed. HES also recognises the commercial and technical constraints that have led to the design solution relative to the gable of the hotel.

Built heritage³⁴

2.169 The special interest of Queen Street Station primarily relates to the train shed and Cathedral Street Bridge. A clear understanding of the character and appearance of a designated conservation area is essential to assessing the impact of proposed change. The detailed conservation area appraisal for the Glasgow Central Conservation Area is the key document against which the impact of the proposed development on the character and appearance of the conservation area is to be assessed.

2.170 By virtue of its physical abutment to Queen Street Station, the local planning authority considers Consort House, located to the south west of the Station, to be part of the station listing. During pre-application discussions Historic Scotland (now Historic Environment Scotland) took the view that Consort House was not part of the listing. As Consort House essentially exists as a separate built form, Network Rail's advisor tends towards Historic Scotland's view. However, to ensure that both views were addressed, the demolition of Consort House (and the attached canopy on Dundas Street) is included both within the application for listed building consent for the alterations to Queen Street Station and the Millennium Hotel and also under a separate application for conservation area consent, both submitted on 11th September 2015.

2.171 Little pre-dating the rebuilding of the station at the end of the 1870s remains on site. Elements of the retaining and boundary walls along Dundas Street and North Hanover Street possibly contain some material from this earlier period. The train shed and Cathedral Street Bridge, the major structural elements of the rebuilt station, were erected from the 1870s onwards. The tracks and platform configurations similarly date from around that time. The ancillary management and retail structures attached to the west, south and east of the train shed all date from the 1970s. While these are technically included in the listing, they are 20th century accretions of little architectural value.

2.172 Consort House, in as much as it is considered to form part of the listing, dates from the late 1960s/early 1970s. It is of a brutalist concrete appearance and turns its back on

³⁴ [Kenneth Williamson, precognition](#)

the station. It is a discordant addition and is not of special interest. The roof structure over platform 1 is understood to be a late twentieth century replication of the previous roof structure and consequently of little genuine significance.

2.173 The principal special interest of Queen Street Station lies in the technical excellence and architectural expression of the single span structural form of the train shed. The Cathedral Street Bridge to the north should be considered in a similar light. The principal setting of the train shed in terms of the local built environment is its relationship with Cathedral Street and Cathedral Street Bridge, where the large fan glazed gable arch is a significant component of the local streetscape. The long barrel vault roof is seen in accidental glimpses from Dundas Street and North Hanover Street.

2.174 The front part of the train shed was constructed in an off-axial relationship with Queen Street in response to the technical and physical constraints of its site. It was set back from both Dundas Street and West George Street/George Square. However, it is visible in glimpsed views from the west, east and south. As the station was inserted into the local area with little deference to the existing townscape, its setting has always been essentially utilitarian. The construction of Consort House, the Millennium Hotel extension and the retail and management units at street level, during the 1960s and '70s, has effectively concealed the station's presence in the West George Street and George Square cityscape.

2.175 The demolition of Consort House and the removal of the station management facilities to the west of the train shed and the retail units and existing entrance area to the south would have no substantial impact on the special interest of the train shed. There may be some slight material impact where these structures are presently attached to the shed but any localised damage to elements of special interest would be repaired and restored as part of the works. Similarly, the reduction at the southernmost end of the replicated side roof would not have a substantial impact on the special interest of the train shed. In this respect the existing louvred gable end would be relocated slightly northwards.

2.176 The concourse area would be extended to Dundas Street, West George Street and George Square. The development proposal would provide a new clear span structure over this concourse with a "glass wall" facing out towards West George Street and George Square and the corner of Dundas Street. This would create designed views towards and from the vaulted train shed structure. The new structure would provide a much greater sense of Queen Street Station as a definable element within the local context. In both respects the setting of the original train shed would be significantly improved.

2.177 The new station management facilities would be outward looking onto Dundas Street, providing an ordered design reflecting the function of the station beyond. Similarly the new entrances are specifically orientated towards the directions of projected maximum footfall. Within the interior of the new structure, the abutment between the new building and the south gable and west edge of the train shed has been designed to restrict the interaction to the springing point line of the existing structure, minimising the material impact and presenting ordered structural interfaces. The canted glazed roofs rising from this interface would provide additional designed views towards the original structure. The setting of the original train shed would be significantly improved.

2.178 Any ancillary works within the former walled station yard to the east of the train shed would be concealed in views from North Hanover Street by the existing enclosing retaining

wall. Any construction within this yard would have no greater effect on the setting of the train shed than the present ancillary structures located there. The proposed development would have little or no impact on the Cathedral Street Bridge.

2.179 In relation to the train shed, the proposed alterations would:

- preserve the features of special architectural and historic interest and significantly improve their setting (sections 14(2) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997);
- not adversely affect the special interest of the building, and would significantly enhance the beneficial use of Queen Street Station (Scottish Historic Environment Policy, paragraph 3.48);
- protect the character of Queen Street Station as a building of special architectural and historic interest and would substantially improve the setting of its features of special interest (Glasgow City Plan 2, Policy DES 3); and
- ensure the appropriate protection, enhancement and management of Queen Street Station as a major heritage asset (emerging Proposed City Development Plan, Policy CDP 9).

2.180 The special interest of the Category B Listed Millennium Hotel primarily relates to the Georgian and Edwardian part of the building overlooking George Square. Although altered, the hotel has evolved from the last surviving block of the prestigious early 19th century townhouses that originally lined the square. The rear elevation of the building is of a lesser utilitarian quality. The 1970s extension and conservatory (constructed in 1999) are of little architectural value and can only be considered to be included in the listing under section 1(4) (a) of the Act, as fixed to the listed building.

2.181 The demolition of the 1970s extension would remove an accretion that has significantly detracted from the character and appearance of the Edwardian part of the hotel providing an opportunity to significantly improve the setting of the listed building. The removal of the extension will have an impact on the present business model for the hotel in as much as it will reduce the number of available rooms.

2.182 Discussion has taken place with Historic Environment Scotland regarding the full scope of the re-instatement works at the west gable of the hotel. It is proposed, principally for fire engineering purposes, that the window recesses and existing openings would be built up in sandstone in the same manner as presently partially evident at the west and east gables of the building. The reinstatement work would improve the legibility of the west gable of the listed building as a complete entity.

2.183 Indeed, the original concerns raised by Historic Environment Scotland in relation to design and built heritage matters appear to have been addressed in the explanations of the design rationale and the minor adjustments proposed in subsequent correspondence with Network Rail's architects. It is acknowledged that Historic Environment Scotland recommended that active steps should be taken to ensure that the Millennium Hotel has a viable long-term future.

2.184 The new concourse structure immediately adjacent the façade of the hotel would significantly improve the character and appearance of the local area and the setting of the Millennium Hotel. The space between the enclosing fire wall to the concourse and the gable wall of the hotel would be glazed on the George Square elevation and roofed over. This would permit views towards the upper levels of the re-instated wall. There would be a necessary physical impact where the enclosure requires to abut the west gable. The architectural design of the abutment details seeks to minimise this impact. There would be no significant impact on the special interest of the listed building in this respect.

2.185 With regard to the Millennium Hotel, the proposed alterations would:

- preserve the special architectural and historic interest of the hotel and significantly improve its setting (sections 14(2) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997);
- not adversely affect the special interest of the building (Scottish Historic Environment Policy, paragraph 3.48);
- protect the character of the Millennium Hotel as a building of special architectural and historic interest and would substantially improve the setting of the listed building (Glasgow City Plan 2, Policy DES 3); and
- ensure the appropriate protection and enhancement of the Millennium Hotel as a major heritage asset (emerging Proposed City Development Plan, Policy CDP 9).

2.186 The local character and appearance of the Merchant City Character Area relevant to the application site is only broadly reflected in the Glasgow Central Conservation Area Appraisal. The present character and appearance of this part of the conservation area is dominated by the conglomeration of 1960s and 1970s structures fronting onto the north side of George Square and West George Street. The character and appearance of Dundas Street is similarly affected and is further dominated by the utilitarian ancillary structures effectively separating the top of the street from the bottom.

2.187 The proposed development would:

- significantly improve the character and appearance of the northwest corner of George Square as it continues into West George Street and in this respect would enhance the character and appearance of the wider area;
- significantly improve the framing of the axial views towards and from St George's Tron Parish Church and the off-axial views towards and from City Chambers and George Square; and
- significantly improve the character and appearance of Dundas Street; and
- provide a landmark building that would signal Queen Street Station as a definable entity within the heart of the City.

2.188 In terms of Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the proposed changes would enhance the character and appearance of this part of the Merchant City Character Area. Regarding the demolition of Consort House and the canopy at Dundas Street as unlisted structures in the conservation area, in terms of paragraph 3.58 of Scottish Historic Environment Policy neither is of substantial architectural value, nor do they contribute positively to the character and appearance of the

local or wider conservation area. The proposals for the future site would significantly enhance the character and appearance of the area. Therefore, the relevant tests for granting conservation area consent for the demolition of these buildings as unlisted structures within the conservation area would be met.

2.189 With regard to DES 3 of Glasgow City Plan 2 the proposed development would:

- enhance the special character and appearance of the local and wider area, respect its historic context and have regard to the historic plans of the area;
- be of a high standard of design, respecting the local architectural and historic context and using high quality modern materials appropriate to its location;
- protect significant views into, and out of, the area; and
- retain all existing open space, whether public or private, which contributes positively to the historic character of the area.

2.190 In relation to Policy CDP 9 of the emerging Glasgow Proposed City Development Plan, the proposed development would become part of the rich historic tapestry of the centre of Glasgow.

2.191 There are a number of Category A and B Listed buildings in West George Street, George Square and Dundas Street whose settings would be affected. In this regard, the proposed development would improve the setting of the listed buildings within the immediate and wider vicinity of the development site (sections 14(2) and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997; Scottish Historic Environment, paragraph 3.53). There would be no detrimental impacts on the setting of the listed buildings in the vicinity (Managing Change in the Historic Environment: Setting). Neither Policy DES 3 of Glasgow City Plan 2 nor Policy CDP 9 of the emerging Glasgow Proposed City Development Plan is specific regarding the setting of listed buildings. Following the general principles of both policies, the character of the listed buildings and structures would all be protected and, to varying degrees, their setting improved.

2.192 The relevant tests for granting planning permission, listed building consent and conservation area consent for the proposed development would be met. Archyfield's alternative proposals would not ensure that the station has a greater civic presence. They would be slightly higher than the train shed and would obscure views of it.

Noise³⁵

2.193 The following potential noise and vibration impacts would arise:

- construction and demolition activity noise;
- construction and demolition traffic noise;
- construction and demolition vibration;
- operational (building services) noise;
- operational road noise; and
- railway noise and vibration.

2.194 The Control of Pollution Act 1974 gives local authorities powers to control noise and vibration pollution from construction sites and requires that best practicable means of

³⁵ [Dr David Hiller, precognition](#)

working must be used to minimise noise and vibration from the worksite. Best practicable means represents a balance between the need to undertake the works and the need to protect any residents in the vicinity of the works.

2.195 Potential significant effects during demolition works were identified at the Carlton Hotel and the Millennium Hotel. Mitigation would be provided by the application of best practicable means, implemented through a Code of Construction Practice, and with other on-site mitigation where appropriate and practicable, potential significant adverse effects would be mitigated.

2.196 Network Rail would secure compliance with the Code of Construction Practice through the contracts for the construction of the project works. All contractors (including sub-contractors) would be contractually obliged to comply fully with the terms of the Code. The provisions contained within the Code would mitigate and avoid the effects of noise identified at the Carlton Hotel. So far as the Millennium Hotel was concerned, following the advice of Network Rail, it was assumed in the environmental statement that the Millennium Hotel would not be occupied during the works. Moreover, whilst the highest vibration was predicted at the Millennium Hotel, it was negligible in relation to the applicable damage risk criteria. As a result, no residual significant adverse effect of noise or vibration would occur. The environmental statement concluded that the cumulative effects of construction and demolition noise and vibration from other developments would be very unlikely to be worse than those effects from the project alone.

2.197 An addendum to the environmental statement has been submitted. The scope of the addendum is to consider (firstly) the implications of the Millennium Hotel remaining in operation during the project; and (secondly) the changes to the cumulative noise and vibration impacts and effects due to three committed developments not considered in the environmental statement:

- demolition of perimeter wall of Glasgow Queen Street Station and alterations to engine shed roof;
- demolition of existing buildings in North Hanover Street car park; and
- mixed use development comprising extensions to Buchanan Galleries shopping centre.

2.198 Archyfield would prefer the Millennium Hotel to remain operational throughout demolition and construction for the project and hence it is treated as a new noise and vibration sensitive receiver for the environmental statement addendum. If it were to remain in use, the Millennium Hotel would receive a significant effect from demolition and construction noise, especially at night when up to approximately half of the south façade would be exposed to noise that would exceed the assessment criterion for longer than a year. This would be added to by structure-borne noise during demolition of the hotel extension. Perceptible vibration would not lead to a significant effect.

2.199 For the west and south facades of the Millennium Hotel, on-site mitigation sufficient to remove the significant effect of noise is unlikely to be practicable. By using off-site mitigation, it may be possible to mitigate sufficiently the effect of the noise through the provision of a noise insulation scheme, including secondary glazing (and ventilation, if required), subject to any limitations for the listed building and subject to agreement between Network Rail and Archyfield.

2.200 Structure-borne noise could be mitigated by creating a break between the two structures before the main demolition takes place, to prevent transmission of vibration between the structures. The structural and safety implications would need to be assessed to ensure that this is possible.

2.201 Additional noise measurements were carried out in the Millennium Hotel, logging noise in bedrooms. This was done to see if it would be feasible to upgrade the noise insulation on the west and south facades so that noise levels would not be increased to more than they are currently (NR-197). The mitigation measures proposed are shown at Chapter 4 of NR-197. Enhancement of the sound insulation and provision of the ventilation requirements is likely to be achievable by a secondary glazing unit, with trickle ventilators. The provision of this system would reduce the sound from the existing road traffic and other sources outside the south façade of the hotel to below current levels as well as mitigating construction noise. The mitigation would be implemented at approximately the first 10 vertical lines of hotel windows (west to east) fronting onto George Square. Listed building consent would be required for these works.

2.202 The environmental statement addendum also identified a number of cumulative effects of noise and vibration during construction that may arise from the committed developments. Construction noise from these developments generally dominates the cumulative effects from those developments and the project. Where the cumulative effects are greater than those reported in the environmental statement it is largely due to the committed developments.

2.203 Through the use of best practicable means, ensured through a contractual requirement for contractors to comply with a Code of Construction Practice, noise and vibration impacts would be mitigated as far as practicable. No significant adverse effect of noise or vibration during demolition, construction or operation of the project was identified in the environmental statement. The environmental statement addendum considered the Millennium Hotel remaining open during the demolition and construction works. The study showed that the effects at the hotel would remain significant and could not be fully mitigated by on-site means. No other significant residual or cumulative effect due to noise or vibration was identified in the addendum.

Air quality³⁶

2.204 The project has the potential to generate local air quality impacts during the demolition and construction phase. During the scoping of the air quality assessment, it was determined that there would be no local air quality impacts as a result of the operational phase and that effects associated with construction traffic would be negligible.

2.205 The technical officer responsible for air quality at Glasgow City Council was consulted regarding the scope of the air quality assessment and agreement was reached regarding the assessment methodology to be used for the environmental statement. European Union and Scottish Government air quality legislation and policy and guidance on a local and national scale which applies to the project was reviewed.

2.206 In relation to the baseline air quality conditions, the site lies within an Air Quality Management Area (AQMA) designated for the entirety of Glasgow city centre for both NO₂

³⁶ [Lesley Anne Stone, precognition](#)

and PM₁₀. Air quality monitoring results available from the council showed that the limit values and air quality objectives for annual mean NO₂ and PM₁₀ are currently already being exceeded in the areas surrounding Queen Street Station. Background air pollution data available from the Air Quality in Scotland and SEPA websites was also reviewed. The background PM₁₀ data was used to establish the sensitivity of the area to human health effects as part of the assessment of effects.

2.207 Air quality effects from the demolition and construction phase of the project were assessed using the qualitative risk-based approach described in the Institute of Air Quality Management (IAQM) guidance on the assessment of dust from demolition and construction. The study area for the assessment of effects is based on criteria provided in the guidance, which considered human health receptors within 350 metres of the site boundary and within 50 metres of proposed routes to be used by construction traffic.

2.208 Following identification of the study area, the next step is to assess the risk of environmental impacts by combining the sensitivity of the study area with the dust emission magnitude for activities associated with demolition, earthworks, construction and trackout. The IAQM guidance provides criteria and guidance to determine the sensitivity of the study area and the dust emission magnitude for all activities considered. The sensitivity of the study area and dust emission magnitude are combined to determine the risk of the site giving rise to dust impacts for dust soiling and human health for each of the activities using matrices provided in the IAQM guidance. Appropriate mitigation measures are recommended based on the risk of the site. The IAQM guidance outlines the type of measures to be implemented for low, medium or high risk sites and appropriate measures have been included in the Code of Construction Practice for the project.

2.209 The cumulative effect of air quality impacts arising from the project was assessed in the environmental statement; three schemes were identified as having the potential to generate cumulative effects. These are as follows:

- Queen Street Station – Internal alternations to allow the temporary display of 10 hanging banners;
- 366 Cathedral Street – Erection of a mixed use development comprising 370 bed managed student residence, ground floor retail unit (class 1) and ancillary works; and
- Edinburgh to Glasgow Improvement Project Queen Street Station southern and northern platform extensions.

2.210 For air quality, the potential for cumulative fugitive dust emissions and emissions from construction traffic was considered. A worst case assumption was made that the Cathedral Street scheme would be occupied during the construction schedule for the project. However, the potential for that scheme to be under construction at the same time as the other schemes was also considered, allowing the potential for cumulative fugitive dust emissions to be considered. It was assumed that where demolition/construction programmes overlap there would be the potential for cumulative effects and dust control measures would need to be implemented for all schemes as well as the project.

2.211 The sensitivity of the study area was determined to be medium for dust soiling from demolition, earthworks and construction and high from trackout. The sensitivity of the study area for human health effects was determined to be high for all activities. Using the criteria outlined in tables 5.3 and 5.7 of the environmental statement, the dust emission magnitude for demolition and earthworks was determined to be small. The dust emission magnitude

was determined to be medium for construction and trackout. Combining these, the site was determined to be low risk for dust soiling from demolition and for dust soiling and human health effects from earthworks. For all other activities the site was determined to be medium risk for dust soiling and human health effects.

2.212 The site was therefore determined to be of medium risk for dust impacts associated with dust soiling and human health as a worst case. In the absence of implementation of dust control measures this would have a significant effect on local air quality.

2.213 Following consideration of the dust control measures in the Code of Construction Practice, it was determined that there would be no residual significant air quality effects as a result of the project.

2.214 The potential for cumulative dust effects was assessed based on a worst case assumption that the construction programmes for all schemes assessed would overlap. It was anticipated that all schemes assessed cumulatively would apply best practice and appropriate mitigation measures to control dust. As a result, no significant cumulative dust effects were anticipated during the demolition and construction phase of the project.

2.215 The air quality chapter of the environmental statement addendum considered the continued usage of the Millennium Hotel through the demolition/construction works as well as three additional cumulative schemes. It also regraded the dust emission magnitude for demolition and earthworks (following a reconsideration of information from the construction team against IAQM guidance) from small to medium. This resulted in a corresponding change to the outcome of the dust risk assessment for dust soiling for demolition and earthworks and the outcome of the dust risk assessment for human health effects for earthworks from low risk to medium risk. The air quality chapter of the addendum nevertheless determined that there would still be no residual significant air quality and that conclusions remain as set out in the environmental statement. No additional dust control measures are required to be included in the Code of Construction Practice.

2.216 It is considered that the air quality assessment presented in the environmental statement and the addendum is competent and thorough. No residual significant air quality effects were predicted following consideration of the dust control measures contained in the Code of Construction Practice.

The construction contract³⁷

2.217 All Network Rail's investment projects must comply with its development and delivery processes, Governance for Railway Investment Projects (GRIP), which describes how Network Rail manages and controls projects that enhance or renew the national rail network. Through the GRIP processes projects are managed in discrete stages which cover the project from inception through to the post implementation realisation of benefits.

2.218 The project has been developed through GRIP Stage 4 (Single Option Development) to design the proposals included in the TAWS Order application and is currently progressing through GRIP Stage 5 (Detail Design) in support of the procurement and construction delivery of the works. The procurement process is on-going and Network Rail expects to be able to appoint a contractor to deliver the works in September 2016. The

³⁷ [Kevin Murray, precognition](#)

same project team has been involved with developing the project to date, comprising of Network Rail with Arup and BDP as principal design organisations supported by others, for example, JMP on traffic engineering.

2.219 GRIP Stage 6 (Construction) would be undertaken through management of the appointed contractor by Network Rail, with technical support provided by Arup and BDP as appropriate. Delivery of the construction works would be procured through a construction contract between Network Rail and its selected main contractor for the works. The construction contract would oblige the main contractor to deliver the works within the control measures provided for within the TAWS Order, the conditions imposed as part of the deemed planning consent, the Code of Construction Practice, the other associated construction management plans and any other undertakings which have been made by Network Rail.

2.220 Procurement of the construction contract is being progressed through a competitive tendering process required to ensure that a suitable and cost effective contractor is procured with appropriate skills and methodologies to undertake the necessary works in an efficient, safe and secure manner at all times. The competitive tendering process has involved compiling a list of competent potential contractors and then conducting a competition between a selected number to assess their suitability and capability to undertake the project specific works. The contractor with the most suitable proposal will be selected and awarded the construction contract to deliver the works. The procurement process has commenced in parallel with the TAWS Order process to ensure that should the TAWS Order be granted then the project can progress efficiently into construction in order to achieve the project objectives in a timely manner.

2.221 The obligations placed on Network Rail through the TAWS Order or offered by Network Rail as commitments in Undertaking Agreements entered into with objectors will, where applicable, be made contractually binding upon the construction contractor.

2.222 The Code of Construction Practice would be incorporated into the contracts for construction of all the works defined in the TAWS Order. The contractor would be required to comply with the terms of the Code and would be monitored by Network Rail in this regard. The Code of Construction Practice would be enforced by Network Rail through the construction contract. Network Rail has also proposed that compliance with the Code be made a planning condition, in which case it would also be enforceable by the local planning authority, which gives comfort to third parties. The same applies to the Framework Traffic Management Plan.

2.223 The Code of Construction Practice requires that an Environmental Management Plan with a number of specific Topical Environmental Management Plans would be prepared by the contractor. These would identify the environmental issues and impacts associated with the main construction activities and the mitigation measures or best practice techniques proposed to mitigate the environmental impact where necessary.

2.224 In addition, the contractor would be required to register with and adhere to the Considerate Constructors Scheme. This is a voluntary scheme where the contractor registers and agrees to abide by the Code of Considerate Practice, designed to encourage best practice beyond statutory minimum requirements. The scheme is concerned with any area of construction activity that may have a direct or indirect impact on the perception of the works and the construction industry in general. The main areas of concern fall into

three categories: the general public, the workforce and the environment. The project works and constructors involved are monitored on a regular basis and notices are displayed around the construction worksites identifying the site as being subject to additional scrutiny and providing a free-phone feedback number.

2.225 Management of the construction contractor would be undertaken by Network Rail, with technical support provided by Arup and BDP as appropriate. The Network Rail team includes experienced construction managers to supervise the contractors' delivery of the works.

Construction programme and methodology³⁸

2.226 The project includes:

- demolition of the 1970s Millennium Hotel extension;
- alterations to the Georgian portion of the hotel;
- demolition of Consort House;
- removal of canopy over footway in Dundas Street;
- redevelopment of station concourse, south and west facades, including reconstruction of station buildings;
- improved station access;
- new lighting and public address systems;
- new ticket office and staff accommodation;
- new toilets and facilities; and
- new operational staff accommodation and station operations facilities.

2.227 Temporary and permanent possession of land is required (including temporary road closures) and acquisition of temporary and permanent rights. An indicative construction sequence is set out below, which would be implemented as shown in the indicative construction phasing drawings (NR-171).

Date	Description of activities
Phase 1 Two months	<ul style="list-style-type: none"> • Temporary ticket office commissioned and available prior to demolition of the existing ticket off and throughout construction. • Retail unit below station managers' office to close and be stripped out to create new access and concourse spaces. • Relocate kerb and infill / resurface to create a 6 metre wide safe passenger footway on west side of Dundas Street. This will accommodate the erection of a hoarding on Dundas Street whilst providing safe access along the street for pedestrians.
Phase 2 Three months	<ul style="list-style-type: none"> • Work commences on retail units strip out.
Phase 3 Three months	<ul style="list-style-type: none"> • Millennium Hotel is to be closed from January 2017 (original proposal). • Asbestos surveys and removal in all demolition / construction areas. Separate joint between hotel and extension. • Pedestrians will be diverted onto the south pavement of West George Street. • Crash deck completed below low level station. • The existing smoke doors adjacent the low-level ticket gates will remain in operation up to the start of the phase 6 works.

³⁸ [John Slade, precognition](#)

Date	Description of activities
Phase 4 One month	<ul style="list-style-type: none"> • Demolition of Consort House. • Remove the precast concrete decking over the low level station adjacent to Dundas Street overbridge) • Full road closure of carriageway of West George Street.
Phase 5 One month	<ul style="list-style-type: none"> • Demolition of South Podium Consort House. • Temporary access stair from upper Dundas Street installed to provide public access to the low level station ahead of demolition works in follow on phase. • Two lanes on West George Street remain closed to traffic.
Phase 6 One month	<ul style="list-style-type: none"> • Demolition of North Podium Consort House.
Phase 7 One month	<ul style="list-style-type: none"> • Demolition of Millennium Hotel 1970s Extension. • The following facilities will be available from North Hanover Street: <ul style="list-style-type: none"> - Taxi rank - Public drop off - Blue badge space
Phase 8 Three months	<ul style="list-style-type: none"> • Demolition of offices to the west of the concourse. • This will be undertaken when the station is closed to the public at night.
Phase 9 Two months	<ol style="list-style-type: none"> 1. Work to basement: <ul style="list-style-type: none"> • Excavate basement installing panels as work progresses down to reduced level. • Form piling mat and install piles. • Foundation and drainage works 2. Demolish Station Managers Office 3. Demolish Operations Building <p>Activities 2 and 3 will be undertaken when the station is closed to the public</p>
Phase 10 2no 52 hour blockades	<ul style="list-style-type: none"> • Low level: remove existing foundations and steelwork. Cast new piles and foundations. (New foundations cast within the low level station will support the proposed Station Management Suite.) • Note: although works to the low level station are not part of the TAWS Order, works carried out to the low level station will result in the closure of the high level station during two 52 hour possessions of the low level track.
Phase 11 Two months	<ul style="list-style-type: none"> • Cast basement retaining walls including casting the encased columns on grid line L. • Cast new pilecaps and ground beams.
Phase 12 Two months	<ul style="list-style-type: none"> • Erect steelwork to basement. Commence construction of concourse floor over the basement. • Erect steelwork to travel centre • Erect steelwork to management office • Cast 3 bases for main steelwork forming the south elevation station frontage, temporary support structures. • Erect gull wing structure west. • Permanent steel frame stair installed from Upper Dundas Street.
Phase 13 One month	<ul style="list-style-type: none"> • Erect main south girder. - Connect new steelwork to existing train shed girder and remove temporary bracing. - Erect the support columns to the glazed frontage onto George Square. This includes gull wing structure. • Roof finishes over the ticket office. • Roof finishes over station management suite. • Glazed canopy connecting to existing train shed. • West truss roof sheeting.

Date	Description of activities
Phase 14 One month	<ul style="list-style-type: none"> • Roof finishes to main south and west roof. • Glazing to connect to existing train shed gable.
Phase 15 One month	<ul style="list-style-type: none"> • Progress roof finishes over south and west concourse. • Rain screen installation. • Wall finishes and window elements.
Phase 16 Two months	<ul style="list-style-type: none"> • Complete south concourse roof and floor finishes. • Underside and vertical elements of cladding. • Stonework, cladding and internal elevational finishes will run concurrently.
Phase 17 Two months	<ul style="list-style-type: none"> • Platform 2/3 and 4/5 extensions completed. • Ticket barriers installed during nightshifts when the station is closed to the public. This will be done using moveable hoardings that can be retracted in the morning before the station is re-opened to the public. • Hoardings and ticket barriers construction staged to allow pedestrian access. • Existing ticket barriers stay in place until new gates are installed. • Proposed 16 NextBike stands fixed to Lower Dundas Street. • Fit out management suite and ticket office. • Finishes and fit out of concourse area.
Phase 18 One month	<ul style="list-style-type: none"> • Commission ticket barriers and OLE. • Main southern station entrance onto West George Street is opened to the public. Stair access now available. • Existing buffers removed. New buffers installed on platforms 2, 3, 4 and 5. • Installation of station furniture and station operations equipment on going.
Phase 19 Three months	<ul style="list-style-type: none"> • Final fit out - Installation of station furniture, station operators' equipment complete and other minor works. • Station commissioning and handover.

2.228 The methodology for carrying out the authorised works would achieve the following (the priority being the safety of constructors, neighbours and public):

- safety of workforce, neighbours and public;
- space for safe working;
- compliance with the Code of Construction Practice;
- maintain operational station;
- Equalities Act compliance;
- construction sequence that safeguards public;
- programme objectives;
- delivery of the project within budget; and
- minimise impacts on neighbours and public.

2.229 The indicative construction sequence is described on drawings EGIP-19-ARP-DRG-DEL-910901 to 910920 that operate to the Order limits, as follows:

- preparatory work, assuming the Order would be made around July 2016 (Drawing 91090);
- Edinburgh to Glasgow Improvement Project works are to be carried out within the station under Network Rail's permitted development powers from April to August 2016 (Drawing 910902);
- West George Street and Lower Dundas Street would remain open to vehicles. Pedestrian access would be unaffected, with the exception of Lower Dundas Street, the ticket office will be relocated to a temporary site within the Vale public house, from October to December 2016 (Drawing 910903);

- west kerb along the length of Lower Dundas Street would be moved. A hoarding would separate construction works and public. A walkway would provide access to the travelator and station. A two lane traffic corridor would be created with hoardings to block the north pavement in front of the station and take the northern most two lanes of West George Street. Asbestos would be removed from buildings due for demolition, from January to March 2017 (Drawing 910904);
- the most challenging issue is demolishing the hotel extension and Consort House and its podium while keeping the station open. The reach required to the top five floors of Consort House tower requires the largest available demolition machines for approximately one month. Whilst they were in use, all four lanes of West George Street would be closed within Order limits. After demolition of Consort House, West George Street would reopen to vehicular traffic. During the closure of the carriageway of West George Street there would be limited opportunity for deliveries. Space must be allowed for tipper wagons. One-way traffic would be adopted at all times for construction traffic, April 2017 (Drawing 910905);
- one-way construction traffic would access the site from the west. Consort House north podium would be demolished at night. Once full closure of West George Street was no longer required, the two northernmost lanes would remain closed until the completion of the authorised works, May 2017 (Drawing no 910906);
- the remaining section of Consort House podium north leg is demolished, June 2017 (Drawing 910907);
- the 1970s extension to the Millennium Hotel is demolished, July 2017. The construction methodology previously assumed that Network Rail would take temporary possession of the main Millennium Hotel Building. LS Buchanan plan to be onsite on plot 16 to start their South Cutting development. (Drawing no 910908).
- Archyfield wishes to remain in occupation of the Millennium Hotel. Without taking possession of the whole building, disruption from the authorised works could be reduced by taking temporary possession of part. Network Rail has entered into an agreement with Archyfield to regulate the undertaking of separation works;
- all of the station operation buildings would be vacated and the offices above the former WH Smiths would be demolished, August 2017 (Drawing 910909);
- operational buildings are demolished while the basement to the new concourse is built, September to December 2017 (Drawing 910910)
- possessions at Christmas and New Year 2017. Foundations over the low level station are constructed (Drawing 910911);
- construction of the new station is under way including foundations for the south and west trusses that will form the 'roof ridge' supporting the roofs of the new building, January/February 2018 (Drawing 910912)
- the west truss is lifted in 5 sections from Lower Dundas Street. Mobile cranes on the east side of Upper Dundas Street between plots TR1 and TR2 lift in the smaller sections connecting to the west truss to form the west station façade. They oversail plots 17 and 20 to 24. Lifting operations occur night, during closure of the low level station, March to April 2018 (Drawing 910913);
- a full four lane closure of West George Street is taken over four nights to lift in the south truss in sections and build in situ, May 2018 (Drawing 910914);
- construction continues to finish the station and complete the platform extensions, June 2018 to December 2018 (Drawings 910915 to 910919);
- the carriageway and northern footway of West George Street are reopened to the public. Final fit outs are completed, January to March 2019 (Drawing 910920).

2.230 The table below details the proposed land uses of each plot within the Order:

Plot Number	Proposed use in Order	Justification
1	Permanent acquisition.	Required to form redeveloped station.
2A, 2B	Temporary use of land in connection with the Order works.	Carrying out works to separate the hotel buildings.
2C	Temporary use of land in connection with the Order works.	Carrying out works to separate the hotel buildings and associated working space.
3, 4, 10, 12, 19	Acquisition of rights for installation of vehicle restraint system and access for renewal and maintenance.	Required to erect and maintain security bollards as a barrier to a vehicle-borne terrorism attack.
5	Temporary use of road in connection with the Order works.	The plot is located directly adjacent to the station frontage. Its use to enable construction works is essential.
6, 7, 13, 14	Temporary use of road in connection with the Order works.	Use required for construction.
7	Temporary use of road in connection with the Order works	The plot is located directly adjacent to the station frontage. Its use to enable construction works is essential.
8	Permanent acquisition	Required for redeveloped station.
9	Temporary use of land in connection with the Order works.	The plot is located directly adjacent to the station frontage. Its use to enable construction works is essential.
11	Permanent acquisition	Required for redeveloped station.
15	Permanent acquisition	Required for redeveloped station.
16	Temporary use of road and other land in connection with the Order works.	Required for placing crane, worksite and access for construction.
17, 20, 21	Acquisition of rights to oversail during construction.	Lifting in connecting members to the west box truss using mobile crane over a period of mid-week nights.
18	Temporary use of road in connection with the Order works.	For pedestrian access.
23	Acquisition of rights to oversail during construction	Lifting in connecting members to the West box truss using 100Te mobile crane over a period of mid-week nights July 2018. Between points
24	Acquisition of rights for the construction of the authorised	

	<p>works and connected fixings, flashings and alteration of adjacent walls.</p> <p>Acquisition of rights for the alteration of existing/construction of new and maintenance of joint roof drainage.</p> <p>Acquisition of rights to oversail during construction of the authorised works.</p>	<p>TR1 and TR2 on the Order Plan.</p> <p>The existing roof at 34 Dundas Street requires removal to permit construction of the new station building and a roofing connection between the two buildings must be fitted.</p>
26	Existing operational land	<p>When the construction methodology was being developed in 2014, LS Buchanan (LSB) was planning to build a multi-storey car park in the footprint of North Hanover Street car park, which would also accommodate the station operational facilities and staff. LSB put the development on hold in July 2015.</p> <p>Network Rail retains the option to put the operational facilities on the car park site, should the LSB scheme remain on hold.</p> <p>These facilities will be located within Plot 26 and will be developed using permitted development rights.</p>

Network Rail’s engagement with objectors

LS Buchanan³⁹

2.231 In terms of interaction with the proposed LS Buchanan scheme, Network Rail has had discussions with LS Buchanan since 2008. Following LS Buchanan’s decision to put the Buchanan Galleries scheme on hold in July 2015 (INR-100) and the submission of the application for the Order, LS Buchanan and Network Rail have been in negotiations with regard to the development, in particular the south cutting. An undertaking agreement was signed on 12th May 2016 which allowed LS Buchanan to remove their objection to the Order. The basis of this agreement was that Network Rail agreed to relocate the temporary ticket office that was planned to be located in part of Plot 16 to a property at 5-7 Dundas Street (The Vale Pub). The relocation of the temporary ticket office allows Network Rail to continue to make use of Plot 16 but also allows LS Buchanan access. The shared use of Plot 16 allows both the Network Rail Order works to be delivered alongside the LS Buchanan development.

Purewal Properties⁴⁰

³⁹ [Jeff Jardine, precognition](#)

⁴⁰ [Mhairi Mackenzie, precognition](#)

2.232 Purewal Properties owns 32-58 Dundas Street and numbers 32-50 are located within the Order limits. These properties are located in Dundas Street Upper. Network Rail advised Purewal that there would be an interface between the eastern and southern walls and roof of their terrace where it connects to the proposed new station building and roof.

2.233 Network Rail has provided indicative construction staging drawings providing an overview of the works in relation to Purewal, and has provided sketches and descriptions of the work to be completed to Purewal's premises. Purewal's main concerns are the impact of the authorised works on their businesses, in particular the impact of hoardings and compounds. They also expressed concerns regarding the works to be undertaken to the properties and explained their requirement for pre and post condition surveys to be done. Network Rail would seek to do such surveys in any case.

2.234 Purewal's primary concern is their tenants and ensuring that so far as possible their businesses are protected from any disruption to trade. They also had concerns regarding possible invasive building operations so close to their building and required further definition in order that they could be satisfied that any risk or potential damage was minimised. They also raised concerns regarding the costs Purewal may incur as a result of these works and requested more information on what their rights to compensation would be. Network Rail advised that Article 16 (now 15) of the Order incorporates the protection afforded by the Lands Clauses Acts and that there is an obligation to pay compensation in accordance with the statutory compensation code.

2.235 In the draft Undertakings Agreement, Network Rail has offered to provide Purewal with on-going consultation throughout the project, through the provision of a single point of contact throughout the works; 24 hour 7 day a week support through the community relations helpline; and monthly meetings/site visits with regular programme updates. Undertakings were offered in relation to specific consultation on the detailed design of the works linking to their property and the construction methodology. Recognising that there will be cranes operating on Dundas Street Upper which may affect the operation of the road for temporary periods of time, Network Rail has offered Purewal advance notice of these activities being undertaken. Network Rail has also provided further information regarding how the new station building would interface with Purewal's buildings. They were provided with drawings of the interfaces between the buildings and a list of the indicative scope of works to be delivered to the properties themselves. Network Rail also offered to have a site visit to review what the works will look like in practice and where the specific interfaces are.

2.236 As of 31 March 2016 Network Rail has not received any further feedback from Purewal's agent regarding the proposals or the draft Undertakings Agreement provided to them on 17 February 2016. Network Rail will continue attempts to discuss matters further with them.

Clydesdale Bank PLC

2.237 A draft settlement agreement is with Clydesdale Bank's representatives, who confirm that there are no significant issues outstanding. However, this objector has yet to respond and the objection has not been formally withdrawn.

Network Rail response to Mr Paul Pagliari

2.238 Mr Paul Pagliari is a resident of Ingram Street and has a resident's parking space which is accessed via Cochrane Street.

2.239 Mr Pagliari advises that he did not receive a notice regarding the public inquiry and believes that Glasgow City Council should have notified local residents by notices on the street and individual notices. Network Rail appreciates that as a resident in the centre of Glasgow Mr Pagliari has an interest in the public inquiry to be held regarding the TAWS Order application for the proposed redevelopment of Glasgow Queen Street station and recognises that he has concerns regarding road access for local residents.

2.240 The public inquiry in question was held to consider Network Rail's TAWS Order application made to the Scottish Ministers. Whilst Glasgow City Council is a key stakeholder for the project, its involvement has been as a third party, not as an authority responsible for the TAWS procedure. Under rule 11 of the Transport and Works (Scotland) Act 2007 (Inquiries and Hearings Procedure) Rules 2007 responsibility for giving notice of the inquiry commencement date rested with Network Rail as the promoter of the scheme.

2.241 Network Rail published newspaper notice of the application and notice in the Edinburgh Gazette and displayed site notices in and around Queen Street station. Notice was served on all those entitled to receive notice: Mr Pagliari was not so entitled because he does not have a notifiable property interest that is affected by the Order. These notices gave details of the places where the documents supporting the application were available and specifically mentioned the environmental impact assessment.

2.242 In addition to the legal requirements for notices to be issued and displayed, Network Rail also undertook a consultation exercise, as is outlined in the consultation report submitted with the application (NR-7). As explained in the report, public consultation was carried out in two phases, 24 February 2014 to 31 May 2014 (Phase 1) and 25th June 2014 to 24 December 2014 (Phase 2). During both these periods consultation activities included advertising within the station and on-train, outdoor advertising on the Subway, direct mail distributions, in-station leafleting and advertisements in newspapers. Social media email and content on the EGIP website, and face to face at public drop-in events, enabled the public to ask questions about the redevelopment proposals, its benefits and implications for them. The consultation also included a radio advertising campaign across central Scotland.

2.243 Mr Pagliari states that the inquiry should fully examine the issue of access to the city centre from the west. Network Rail appreciates that Mr Pagliari has concerns regarding road access for local residents in the city centre and understands from what he says that local access has been an issue for Mr Pagliari since the introduction of the bus gate on West George Street. The public inquiry is being held to consider the TAWS Order application for the redevelopment of Glasgow Queen Street Station, not Glasgow City Council's traffic regulation scheme in the area. The Order would not make any changes to the operation of the bus gate as affecting the general public. The only change proposed in the Order is to allow access through the bus gate by traffic connected with the TAWS works (article 11(1) (a) of, and Part 2 of Schedule 4 to, the Order). Network Rail considers that the only issue concerning the bus gate that is before the Inquiry is that TAWS-related use. General issues of access to the city centre from the west are not relevant to the Order and so are beyond the scope of the inquiry.

2.244 Mr Pagliari advises that the stopping off of local access would cause disproportionate harm to home and family life if not mitigated by the opening of an alternative local access

route. His concern regarding the stopping up of access relates to the proposed temporary closure of West George Street. Access via West George Street for the general public is controlled by the bus gate so that private car access is currently only available after 19:00 and before 07:00.

2.245 Network Rail appreciates that Mr Pagliari has concerns regarding road access for local residents in the city centre and understands from the objections made that local access has been an issue for Mr Pagliari since the introduction of the bus gate. However, as explained above, Network Rail is not proposing to make any changes to the operation of the bus gate in relation to the public. The following paragraphs outline the proposals for the temporary closure of West George Street.

2.246 As set out in the framework Traffic Management Plan (NR-21) it is currently envisaged that for one month, a section of West George Street would be temporarily completely closed to vehicular traffic. This closure is essential in order to demolish Consort House in the most safe and efficient manner. Network Rail appreciates the impact of a road closure of this nature and has sought to limit the length of time that this is required. The framework Traffic Management Plan presents the options considered for alternative vehicular arrangements during this period and this document would be updated throughout the continued development and carrying out of the project.

2.247 The Order does not state the precise closure periods or the precise number proposed because, as a matter of practicality, a measure of flexibility is necessary. The principal power provided by the Order is in line with the way infrastructure construction is authorised to enable infrastructure projects to be carried out effectively. However, the power in article 10 of the Order does not allow for any indefinite road closures. Article 10 provides a power to stop up, alter or divert roads, but this can only be temporary and can only be exercised for the purposes of carrying out the TAWS works. Network Rail has sought to keep closures as short as possible and with the least restrictions that can be managed at any one time.

2.248 The length of time envisaged for the full closure of the carriageway is based on careful planning and consultation with specialist demolition contractors. Network Rail wishes to minimise the road closures required and the resultant impact on the road network. However, a number of considerations must be balanced, such as the overall disruption caused and safe delivery of the TAWS works. It is considered that the proposal put forward by Network Rail is the best option when balancing the requirements for the road network and safe delivery.

2.249 In addition Network Rail is also proposing to implement temporary lane closures on West George Street in order to safely deliver the construction works. These proposals would not result in any changes to the operation of the bus gate, meaning access to the local area would continue as they do now.

2.250 For the reasons explained above, between 07:00 and 19:00 hours there would be no change to the access arrangements for private vehicles as these are already restricted by the bus gate. However, Network Rail appreciates that for the indicative period of 4 weeks there would be an impact to Mr Pagliari's vehicular access route after 19:00 and before 07:00 hours. During this period, Mr Pagliari would be able to use the alternative routes that are available and used already between 07:00 and 19:00 hours.

2.251 Network Rail considers that the proposals put forward in the TAWS Order application would have minimal impact on the arrangements for private vehicular access in the city centre. Access via West George Street is already controlled by the bus gate, meaning that private vehicles cannot use this route between 07:00 and 19:00 hours each day. Network Rail does not propose to change this arrangement. Network Rail appreciates that for the short period of time that it is proposed to close West George Street there would be an impact on private vehicular access via this route after 19:00 and before 07:00 hours each day. During this period of time there would be alternative routes available for local access, and these are the routes that must already be used during the hours that the bus gate is in operation.

Planning considerations⁴¹

2.252 As permitted by The Town and Country Planning (Scotland) Act 1997 as amended (the 1997 Act) Network Rail has applied for a direction for deemed planning permission. Under The Transport and Works (Scotland) Act 2007 (the Transport and Works Act), Network Rail has submitted a listed building application and a conservation area consent application which have been referred to Scottish Ministers for determination concurrently with the order.

2.253 There is a distinction between considerations relevant to the determination of an application for planning permission and where a direction is being sought for deemed planning permission. In this case there is no legislative requirement for regard to be had to the development plan. The Technical Guide (PD-26) confirms that a wide range of issues are relevant to whether it is in the public interest to grant all the powers applied for in the order.

2.254 It is a public policy requirement that Queen Street Station be extended and improved in its current location. The requirement to accommodate longer trains dictated that capacity be found at the existing station and by extending platforms southwards.

2.255 The development plan comprises the Glasgow and Clyde Valley Strategic Development Plan and Glasgow City Plan 2. This proposal meets the aspirations of the former for sustainable development and good public transport. The proposal is consistent with the City Plan designation of the station as Transport Infrastructure and the policy aims of encouraging proposals which support integrated and sustainable transport. The extension of the station into areas presently occupied by the Millennium Hotel extension and Consort House is consistent with the allowance for complementary uses which contribute to vitality and viability and improve accessibility in the Principal Retail and Office Areas as identified in the City Plan.

2.256 Scottish Planning Policy, which post-dates the development plan, introduces a presumption in favour of proposals contributing to sustainable development and requires the creation of high quality places. The primary purpose of the redevelopment is to provide for growth in passenger numbers and increased train lengths. Achieving that within and around its existing site and with minimal impact on the historic environment is compliant with Scottish Planning Policy principles of sustainability.

⁴¹ [Sandra Hebenton, precognition](#)

2.257 The proposed development meets the six qualities of successful places. In particular it would be safe and pleasant. It meets safety legislation and Network Rail's own standards. A pleasant passenger experience would be provided through appropriate facilities and the general amenity of the station. It would be a welcoming place with a legible design. The redeveloped station would be significantly easier to move around and beyond. The design has been influenced by pedestrian movement studies and places importance on accessibility.

2.258 The Proposed City Development Plan (PD-36) reflects the principal policies of Scottish Planning Policy. The increase in capacity delivered by the redevelopment meets the recognition in the plan of the importance of infrastructure to the city and is supported by Policy CDP 11 on Sustainable Transport. Consort House and the Millennium Hotel lie in the Principal Retail Area where Policy CDP 4 Network of Centres supports improved public transport connections. The proposal complies with Policy CDP 1 The Placemaking Principle which requires that new development should aspire to the six qualities of place in Scottish Planning Policy. Increasing the capacity and attractiveness of the station would enhance the sustainability of the city in compliance with Policy CDP 2 Sustainable Spatial Strategy.

2.259 The requirements of both Sections 59(1) and 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are material to the consideration of the deemed planning permission and the proposals have been developed to have regard to impacts on listed buildings and the conservation area.

2.260 The procedures to be followed in these cases are set out in the Transport and Works (Scotland) Act 2007 (Consents Under Enactments) Regulations 2007 (LD-7). These regulations do not vary the requirements of section 59(1) and 64(1), in relation to the determination of a listed building application, to have special regard to impacts on listed buildings, or to the duty to pay special attention to the impact of proposals on a conservation area and in relation to the demolition of unlisted buildings in conservation areas.

2.261 Network Rail has treated Glasgow City Council as a key stakeholder and has held regular meetings with them, focussing on design issues. It has been demonstrated that the council's objections can be addressed. Network Rail and the council have agreed an on-going collaborative approach to detailed and further planning and transport matters arising from the redevelopment. The council proposed conditions to be attached to each consent. A revised list of conditions has since been agreed.

2.262 Historic Environment Scotland raised a concern about the impact of the proposal for a glazed link on the western gable of the category B listed Millennium Hotel. Amended drawings showing these changes have now been included for consideration. The amendments do not represent a change in the substance of the proposal which can still be said to be described as 'works to reconstruct and extend Queen Street Station'. Both the solution included in the application and the potential amendment require to be considered in terms of whether they preserve the building or its setting or any features of special architectural or historic interest and in terms of their impacts on the functioning of the existing and proposed buildings and street. The amendment is unlikely to give rise to substantial new grounds of planning objection given it is, in substance, the same as the original.

2.263 Archyfield objects that the proposal does not comply with policies on sustainable development as a result of a focus on the need to expand the station within the existing site. Network Rail points out that this is a public infrastructure project undertaken by a public body in response to a public policy requirement. Notwithstanding that, it has not been considered in isolation from its surroundings. That is demonstrated by Network Rail's consideration of alternatives and their impacts on the Millennium Hotel at earlier stages and significant consideration of design within the constraint of having to enhance capacity in an existing city centre station. Compliance with national and local planning policies on sustainability can be demonstrated. In particular, by increasing capacity at an existing station Network Rail clearly make better use of existing infrastructure, as required by NPF3.

2.264 Scottish Planning Policy sets out guiding principles for sustainable development including 'protecting, enhancing and promoting access to cultural heritage, including the historic environment'. The redevelopment of the station is being undertaken with minimal impact on the historic environment, with the listed train shed being little affected by the works, minimal impact on the historic fabric of the Millennium Hotel and including the removal of two buildings which do not contribute to the value of the historic environment.

2.265 In conclusion, policy considerations relevant to the determination of the deemed planning permission, including land use designations and principles of sustainability and good design, are met by the proposal. The requirement in determining the deemed planning permission and listed building consent applications to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest applies has been met. The proposal preserves the special architectural and historic interest of the station and the Millennium Hotel and significantly improves the setting of both of these listed buildings. The requirement in determining the deemed planning permission to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas applies has been met. The proposal significantly enhances the character and appearance of the conservation area. The requirement in determining the application for conservation area consent to pay special attention to the desirability of preserving or enhancing the character or appearance of that area applies and has been met. The demolition of Consort House would significantly enhance the character and appearance of the conservation area.

Issues arising after precognitions were submitted⁴²

Explanation of proposed order amendments

2.266 Article 4 and Schedule 1: The amendments respond to the points raised by the Reporters. Article 4 was expressed as a power to construct. As "construction" is defined in Article 2 to include demolition, the current drafting does in fact pick up all the works, but it is accepted that it could usefully be clearer. The amendment refers to works being "carried out", which is a much more natural way of referring to both construction works and demolition operations. The amended Schedule 1 is clarified by the addition of reference to demolition and construction of the various buildings and structures.

2.267 Article 5 and Schedule 7: The Agreement with Archyfield is explained below. It involves a change in the size of plot 2 and its subdivision into plots nos. 2A, 2B and 2C, each of which is to be subject to slightly different powers. The new Article 5(3) (a) provides

⁴² [Alison Gorlov, supplementary precognition](#)

for these three plots to be the subject of temporary possession under article 20 only for the purposes specified in the amended Schedule 7. The purposes specified there are limited to the carrying out of works to separate the 1970s extension of the Millennium Hotel from the main Georgian building.

2.268 Article 20 and Part 3 of Schedule 9: Amendments in Article 20 reflect plot 2 having become plots nos. 2A, 2B and 2C. In the amended Sheet 2 of the Order plans (submitted as sheet 2B), these plots are now outside the Order limits. To remove any implication that Article 20 would permit Network Rail to demolish the Georgian building, the amended Article 20(1) (b) and (c) limits the power to remove buildings to land within the Order limits. The amended article 20(3) and (4) make the temporary possession of plots 2A, 2B and 2C subject to the protective provisions for the Millennium Hotel in the new Part 3 of Schedule 9. This sets out a procedure for agreeing separation works, to separate the two hotel buildings, and mitigation works, to reduce the impact of the authorised works on the hotel. It provides for Network Rail and the hotel's owner to agree which of them is to carry out any works with Network Rail retaining the ability to carry out all separation works. Paragraph 7 ensures that the compensation position is unaffected by the fact that any works have been carried out by the owner rather than Network Rail.

2.269 Article 37: The amendment, to refer to provision for "persons" rather than "undertakers" reflects the addition of Part 3 of Schedule 9 for the Millennium Hotel, which is not a statutory undertaker. Article 40: The amendment omits the erroneous reference to section 65 of the Control of Pollution Act 1974. Network Rail is grateful to the Reporters for having pointed out that it has been repealed.

2.270 Part 1 of Schedule 9: SPT owns and operates a fibre optic communications cable which is important for their undertaking. The route of the cable goes through the canopy in Dundas Street that is to be demolished. The appropriate solution is to include the cable in the apparatus protected by the "lift and shift" provisions in Part 1 of Schedule 9, and that is the effect of the amendments in Part 1.

Outline of Network Rail's agreement with Archyfield

2.271 Archyfield continues to oppose the proposed demolition of the 1970s extension and the redevelopment proposed and that is untouched by the Agreement. However, Archyfield has agreed with Network Rail how best to protect the hotel and its continued operation in the event that the Order is made in the terms sought, giving Network Rail power to demolish the extension.

2.272 Network Rail and Archyfield have identified works that will reduce the impact of the authorised works on the hotel. The Agreement provides a mechanism for the parties to agree the details of these works and also the detail of works to separate the 1970s extension from the Georgian building ("separation works"). The parties have identified a division of responsibility for carrying out the separation works. The intention is that Archyfield will carry out all the mitigation works and some of the separation works, with Network Rail carrying out the rest of the separation works and having an overarching right to take over the Archyfield separation works in specific circumstances. Archyfield will be reimbursed its cost of carrying out any separation works. The Agreement recognises that, as provided in paragraph 7 of the new Part 3 of Schedule 9, its having carried out these works will not affect its right to compensation under article 20(6).

Plot 26 – effect of its inclusion within the order limits

2.273 Archyfield objected that when it was consulted about the proposals plot 26 was not included in the affected area. The complaint was that Archyfield should have been consulted about the later inclusion of plot 26. For the reasons given below the addition of plot 26 cannot have any impact on the Hotel or Archyfield's interest in it and so there was nothing about which to consult Archyfield.

2.274 Plot 26 is the station car park. It is owned by Network Rail as part of its operational land. Archyfield claims to have access rights to the Hotel from plot 26 for the purposes of servicing the Hotel, and such servicing does in fact take place. Network Rail has been prepared to tolerate this but denies that Archyfield has any rights. The inclusion of plot 26 within the Order limits does not affect the legal position regarding rear access. The inclusion of plot 26 will give Network Rail powers to carry out Schedule 2 ancillary works on the land, subject to the need to obtain planning permission. The rule 8 application for deemed planning permission originally included permission for three structures that will be essential for the operation of the new station building i.e. a facility for Abellio ScotRail's railway staff, an electricity substation and a fire sprinkler tank. These would be constructed at the north end of plot 26. Accordingly, the inclusion of plot 26 within the Order could not affect Archyfield and so there was nothing on which consultation was necessary.

2.275 Network Rail has now decided not to apply for deemed planning permission in principle for these works. Instead, it will use its permitted development rights as this is station operational land. There is an expedited procedure in the draft Order where any application to the council must be dealt with within 28 days.

Effect of TAWS powers in relation to nuisance

2.276 The effect of statutory authority (in this case the Order) confers immunity from action for nuisance in respect of the thing authorised. This captures damage arising from the mere existence of the authorised works or the carrying on of the authorised activity. A prime example from the past is the immunity this gave train companies from damage to crops in fields adjoining the railway which might be (and often were) set on fire by sparks from the funnels of steam engines. Statutory authority does not give any wider immunity in respect of damage caused by the authorised works. The immunity does not apply if there is negligence on the part of the statutorily authorised person. Neither does it apply to the many statutory provisions concerning the construction and operation of authorised works, which have their own criteria for liability.

Summary of closing submissions on behalf of Network Rail⁴³

Legal background

2.277 Network Rail Infrastructure Limited (Network Rail) seeks an Order under section 1 of the Transport and Works (Scotland) Act 2007 (the 2007 Act). The draft Order is an evolving document. The most recent iteration was submitted on 1 July 2016.

2.278 In the event that the Scottish Ministers make the Order, Network Rail also seeks a direction under section 57(2A) of the Town and Country Planning (Scotland) Act 1997 (the

⁴³ [Closing submissions on behalf of Network Rail](#)

1997 Act) that planning permission should be deemed to be granted for the scheduled works, as defined in article 2 of the draft Order, and that planning permission in principle should be deemed to be granted for the ancillary works defined in article 5 of, and Schedule 2 to the draft Order. The scheduled works and the ancillary works are collectively described in the draft Order (article 2) as “the authorised works”.

2.279 Because the scheduled works include certain listed buildings and are situated in a conservation area, Network Rail also seeks listed building consent and conservation area consent under sections 7(1) and 66(1) respectively of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the Listed Buildings Act). As the applications for those consents were made within 10 weeks of the application under section 4 of the 2007 Act for the Order those applications fall to be determined by the Scottish Ministers rather than by the local planning authority (regulations 5(1)(a) of the Transport and Works (Scotland) Act 2007 (Consents Under Enactments) Regulations 2007).

2.280 Section 1 of the 2007 Act is concerned, amongst other things, with:

“the construction or operation of a transport system of any of the following kinds—
(i) a railway which starts, ends and remains in Scotland, ...”

2.281 The draft Order is concerned with works to Queen Street station in Glasgow to accommodate eight-carriage trains as part of the programme of improvements to the train service between Edinburgh and Glasgow.

2.282 The 2007 Act does not contain criteria for the making of an order under section 1. This is in marked distinction to a decision on whether or not to grant planning permission under section 37(1), or on a call-in under section 46(1) or on appeal under section 48(1) of the 1997 Act. Under those provisions, criteria are specified in section 37(2) and the status of the development plan within those criteria is the subject of express provision in section 25. Those criteria, namely sections 37(2) and 25 of the 1997 Act, are not, as a matter of statutory interpretation, applied to a direction under section 57(2A) of that Act. Lord Malcolm, in *William Grant & Sons Distillers Ltd v The Scottish Ministers* [2012] CSOH 98 (LD-34), endorsed this approach to the interpretation of the analogous provision in section 57(2) of the 1997 Act which empowers a direction of deemed planning permission when a consent has been granted under section 36 or 37 of the Electricity Act 1989 (the 1989 Act) (LD-34 at paragraphs 11 to 18). The planning merits of the proposed redevelopment of Queen Street station are relevant considerations to the decision of whether or not to make the Order, but the terms of sections 37(2) and 25 of the 1997 Act do not apply to that decision.

2.283 Section 59(1) of the Listed Buildings Act provides:

“In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

2.284 That provision, like sections 37(2) and 25 of the 1997 Act, applies to a decision whether to grant planning permission. It does not, therefore, apply directly to a decision whether to make a direction under section 57(2A).

2.285 Section 64(1) of the Listed Buildings Act, however, appears to be different. It states:

“In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

2.286 Subsection (2) then specifies that those “provisions” include the planning Acts, which include the 1997 Act. It appears that section 64(1) applies to the decision whether to grant a direction under section 57(2A).

2.287 If Scottish Ministers are satisfied that the character or appearance of the area would not be adversely affected by the proposed development, there is no statutory presumption against granting planning permission or, in the present case, making a direction that there should be deemed planning permission. This was addressed by Network Rail. Its witness considers that neither the character nor the appearance of the conservation area would be adversely affected by the proposed development. This stands unchallenged in any other evidence offered.

2.288 Criteria for the decision on whether to grant listed building consent are to be found in section 14(2) of the Listed Buildings Act:

“In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

2.289 Section 66(3) of the same Act provides that section 14(2):

“shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings subject to such exceptions and modifications as may be prescribed by regulations.”

2.290 Section 66 applies to the demolition of a building other than a listed building in a conservation area. Thus, listed building consent is sought for the demolition of the 1970s Millennium Hotel extension, which is a listed building, and conservation area consent for the demolition of Consort House, which in Network Rail’s opinion is not. The merits of these applications were considered at the inquiry by Network Rail’s witness, whose evidence on these topics was unchallenged.

2.291 Prior to the 2007 Act, the construction or reconstruction of a railway station could only be the subject of an Act of Parliament. In the case of Queen Street station the original authorisation was the Edinburgh and Glasgow Railway Act 1838, which over the years was followed by a number of amending Acts as the station was enlarged and improved. After 1932 the effect of such an Act was to confer outline planning permission (planning permission in principle) for the development because of the terms now of Part 11 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, Class 29(1) (b) of which refers to development authorised by an order approved by both Houses of Parliament or by the Scottish Parliament. The Order under section 1 of the Transport and Works (Scotland) Act 2007 would not come within the scope of Class 29(1) (b).

2.292 It is for this reason that deemed planning permission in principle is sought for the ancillary works in article 5 of, and Schedule 2 to the Order. This would bring Network Rail's powers into line with those presently enjoyed under Part 11 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

2.293 The Town & Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 do not apply to an Order under the 2007 Act, or to the deemed grant of planning permission under section 57(2A) of the 1997 Act, or to an approval of matters specified in conditions following on from a deemed grant of planning permission in principle under section 57(2A). The prohibition in Regulation 3 of the regulations is concerned with a "grant of planning permission" and not with a deemed grant of planning permission. The definition of a "multistage consent", with which Regulation 4 is concerned, specifies amongst other things that the condition, in respect of which approval is sought, must have been imposed "on planning permission granted on an application made under Part III of the Act". It is for this reason that the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 contain provisions regarding the requirement for, and content of an environmental statement (Rules 5 and 9).

Reasons for seeking the Order

2.294 The Order was necessitated by the Scottish Government's policy decision to promote the Edinburgh Glasgow Improvement Project by introducing eight-carriage trains on the service rather than by increasing the frequency of six-carriage trains. The press announcement on 4 July 2012 stated that the project will also transform Glasgow Queen Street station into a world-class integrated transport hub and the revamped project plans will see savings of over £300 million after Ministers updated the original project based on changes to the network and new opportunities to transform Queen Street.

2.295 That policy decision accorded with, and implemented the key objectives of Scotland's National Transport Strategy, December 2006, (PD-1):

- Improved journey times and connections – making it quicker, easier and more reliable for passengers to travel between our towns and cities and across our global markets.
- Reduced emissions – making sure that Scotland takes a lead in the future of sustainable transport.
- Improved quality, accessibility and affordability – ensuring everyone across Scotland has high quality public transport choices.

And in particular, the pledge contained in paragraph 81:

"We will focus on improving journey times for rail on intercity journeys, to make rail competitive with journey times by car and will focus on making the best use of our urban rail networks for commuting into Glasgow and Edinburgh city centres in particular, but also across Scotland."

2.296 When the National Transport Strategy was reviewed in January 2016 (PD-101) those three Key Strategic Outcomes were restated, with minor variations to the wording. The significance of that policy decision was that the platform lengths at Queen Street Station required to be increased to accommodate the longer trains. The full policy and technical

evidence on this point was provided at the inquiry by Network Rail. In essence, the physical constraints of the tunnel immediately to the north of the station meant that platform lengthening had to take place to the south, with a consequent movement of the concourse area. Passenger numbers at Queen Street station are predicted to double by 2049. Those predictions accord with the trend of increasing passenger numbers on the ScotRail network highlighted in National Transport Strategy, January 2016 (PD-101).

2.297 The principal consequence of the proposed lengthening of three of the platforms at Queen Street station to accommodate longer trains is the opportunity to redevelop the station and to transform it “into a world-class integrated transport hub” and at the same time to ensure its full compliance with modern safety standards. In order to provide platforms capable of accommodating eight-carriage trains, and also a concourse which will be fit for purpose for 30 years from 2019, it is necessary to demolish both Consort House and the 1970s Millennium Hotel extension.

2.298 If the hotel extension was to be excluded from the scope of the Order, Network Rail would not proceed with the proposed redevelopment to accommodate eight-carriage trains. It would, therefore, be necessary to revisit the 2012 policy decision not to pursue the considerably more expensive option of increasing the frequency of six-carriage trains. This would also render abortive the expenditure already made to enable the use of eight-carriage trains on the Edinburgh-Glasgow via Falkirk High route. The evidence on this point is based on technical and safety advice.

Archyield Ltd

2.299 Before the inquiry began to hear evidence, the question of temporary possession by Network Rail of the main hotel building was resolved by way of agreement between Network Rail and Archyield and is reflected in the most recent version of the draft Order. The principal remaining ground of challenge by Archyield concerned the need to demolish the 1970s extension to the hotel. The extension became listed because of its attachment to the main hotel building. In the Design Statement (MH4) which accompanied Archyield's application for planning permission for alterations and extension to the hotel, the 1970s extension was described as one of the inappropriate more recent additions to the hotel, the removal of which would improve the existing building by restoring the listed building to its former quality.

2.300 At present the hotel contains 117 bedrooms, 51 in the extension and 66 in the main building. One witness for the hotel stated that less than 10 of the 51 guest rooms could be replaced within the existing Georgian building. However, in order to achieve this, the existing first floor meeting rooms would have to be converted into guest rooms. This would result in a significant loss of meeting room revenue and associated food and beverage sales. That evidence was apparently contradicted by another witness who explained how, with the appropriate opening up of windows in the west gable, nine new en suite bedrooms could be created, four of which would be required to replace rooms which would otherwise be lost as part of the separation works.

2.301 In evidence to the inquiry, Archyield explained that in order to operate at an international four star deluxe hotel standard, a global brand such as Millennium requires a minimum of 100 guest rooms to have the economy of scale to cover the fixed centralised overheads and costs. Hotels with less than 100 rooms are generally considered 'boutique'

or niche hotels. The hotel is not a boutique hotel and neither can it be operated profitably as such in its central city location as a member of a four star deluxe brand.

2.302 However, when questioned Archyfield's witness said that Archyfield would like to maintain the current model which is the four star deluxe model, the Millennium brand, which they have spent years building up. The witness acknowledged that they could operate a smaller format, but they needed to investigate this. The witness agreed that other hotel operators could be found who would be able to operate a smaller boutique hotel. However, he made it clear that he was not saying that Archyfield would not operate it. Network Rail points out that this is a significant qualification of the position originally stated by Archyfield.

2.303 The planning permission which has been granted for the alteration and extension of the hotel goes considerably further than merely replacing the lost 51 bedrooms. It would, if implemented, increase the total number of bedrooms if the extension was demolished to about 150 bedrooms and to almost 200 if the 1970s extension remained.

2.304 It is not easy to ascertain what precisely Archyfield is asking Scottish Ministers to do with regard to the Order. The witness explained that he wanted an integrated solution but he did not seem able to relate that aspiration to the Ministers' powers under section 1 of the 2007 Act. Eventually, he accepted that Archyfield was asking Scottish Ministers to put Archyfield's commercial interests in the 51 bedrooms ahead of the public interest in delivering the proposed new Queen Street station and the contribution that that would make to the Edinburgh Glasgow Improvement Project. Network Rail does not consider that to be a tenable position, especially in light of the above-mentioned qualification of Archyfield's original evidence.

2.305 The relevant policy consideration is to be found in Circular 6/2011 (PD-28), which emphasises that in considering whether to confirm a compulsory purchase order Scottish Ministers will weigh up the public benefit in the proposal against the interests of the people affected. The introduction to that circular explains that although the circular covers compulsory purchase authorised by an Order made under the Part 1 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, compulsory purchase powers could also be derived from an order under the 2007 Act. The circular states that:

"The procedure to be used in these cases is different but much of the policy in the circular is still relevant."

2.306 Taking the following matters into consideration, Network Rail considers that a balancing of public benefit and the private interests of Archyfield would favour the making of the Order:

- the Archyfield planning permission and listed building consent had already been granted for alteration and extension of the hotel which would more than replace the lost bedrooms;
- Archyfield did not close the door on the possibility of operating a hotel with only 66 bedrooms; and
- there is no evidence that the hotel would be likely to fall out of hotel use even if Archyfield were not the operators.

2.307 Archyfield's planning witness considers that an assessment of the development proposals against the provisions of City Plan 2 leads to a conclusion that, in all normal circumstances, the current proposals would result in a refusal of planning permission and of conservation area consent. However, Network Rail points out that this proposition ignores two important facts: first, an order under the 2007 Act and a consequential direction under section 57(2A) of the 1997 Act is not "normal circumstances" in a planning context; and secondly, Glasgow City Council does not oppose the making of either the Order or the directions sought by Network Rail, nor does anyone else on planning grounds, including Historic Environment Scotland.

2.308 Network Rail was criticised for seeking a direction under section 57(2A) rather than making an application for planning permission to the local planning authority in the normal way. Archyfield's planning witness had no basis for making that criticism standing the relevant statutory provisions.

2.309 Archyfield's witness on railway issues accepted that the safety of rail infrastructure generally and of the buffer stops arrangement at Queen Street station in particular were the responsibility of Network Rail. He also accepted that the ultimate decision-maker in relation to such safety matters was Network Rail and that the safety of buffer stops and the analysis of risks related to buffer stops was a matter of expert professional judgement. He did not challenge that Network Rail was entitled to rely on the expertise of its witness in these matters, nor did he question that witness' entitlement to reach the decision which he had in the present case, namely that the demolition of the 1970s hotel extension was necessary.

2.310 Archyfield's witness believed that dialogue could have been constructive, but this appeared to ignore the fact that the various options suggested by Archyfield were cogently rejected by Network Rail's witness in his evidence. Network Rail considers that the only criticism that could be made of their witness was that he had not undertaken a risk assessment of carrying out the proposed platform extensions but without demolishing the hotel extension in whole or in part. He responded that not to demolish the hotel extension in the context of an opportunity to redevelop Queen Street station was so obviously unsafe that further consideration of that option was wholly unnecessary. Network Rail's witness had the ability to carry out such a risk assessment if it was necessary or appropriate. The potential danger, and the number of lives at risk, had meant that retaining the hotel extension in whole or in part was never an option.

2.311 Archyfield's architectural witness had attempted to reduce the number of supporting columns for the hotel extension and to remove one floor of the extension in an attempt to retain two floors containing 34 bedrooms. Apart from the issues of practical complexity and expense, there would remain a compromised concourse area. There would also be an unacceptable risk to life caused by the potential number of people exposed to risk from a collapse of the hotel extension if any remaining supporting column was struck by an out-of-control train. Network Rail's analysis of the factors involved in such a risk assessment made clear that it was the proximity and number of people at potential risk which made the decision to demolish the hotel extension unavoidable.

2.312 Archyfield's position in its closing submission is that the Order should not be made but that if it was to be made, Network Rail should not be given compulsory acquisition powers in relation to the 1970s hotel extension. That would involve removing the hotel extension from Schedule 6 to the Order but not from Schedule 1. The closing submission explains that this would allow all relevant parties an opportunity to bring forward a holistic

development of the station, hotel and LS Buchanan proposals consistent with Historic Environment Scotland's and Glasgow City Council's desires.

2.313 This explanation ignores two important facts. Firstly, Network Rail's evidence is that, without the 1970s Hotel extension the scheme to which the Order relates would not proceed. Secondly there is no evidence that a "holistic development" is practicable or deliverable. There is no evidence of any agreement among Archyfield, Network Rail and LS Buchanan or any two of them. All have disparate and competing commercial and financial interests. If the 1970s hotel extension was to be excluded from the scope of Schedule 6 (compulsory acquisition) but not from Schedule 1 (the scheduled works), a ransom situation would be created. Network Rail had offered to buy the 1970s extension in about February 2014. That offer had not been accepted and there was a substantial chasm between the figure offered by Network Rail and the expectations of Archyfield.

The Millennium Hotel windows⁴⁴

2.314 Archyfield considers that the windows on the western gable of the Georgian portion of the Millennium Hotel should be retained or reinstated to allow the hotel to retain 4 bedrooms within the Georgian hotel and create a further 5 bedrooms, as part of mitigation of impacts of the authorised works under the Order. Following the Order works both the hotel and the station will require a revised fire strategy. Network Rail proposes that all windows on the western gable wall of the hotel are infilled.

2.315 Network Rail has produced a fire strategy for the expansion of the High Level of Queen Street Station. This strategy has been based on the Order proposals and not the revised reinstatement proposal made by Archyfield. The strategy relies on the creation of a new fire rated wall, located a couple of metres away from the western gable of the hotel, to provide a suitable level of safety for the station's occupants. This strategy ensures that the fire safety of the station's occupants remains within the control of Network Rail. The space created next to the hotel also provides structural separation between the two structures and limits the physical interface with the Grade B listed Georgian hotel. It also provides some visibility of the refurbished western gable.

2.316 However, should the Order be granted and implemented, the space between the western gable of the Georgian hotel and the new wall would form part of the station property footprint and it should not be exposed to the risk of fire from the neighbouring property. Fire and smoke entering this space would be likely to cause damage to the station. Smoke entering this space from the Georgian hotel would be detected by the station's smoke detection system. The proposals associated with the Order, therefore, propose to infill the windows on the western gable of the hotel, reducing the risk that smoke would enter the station and reducing the likelihood of a fire within the hotel impacting on the station in any way. It would also help limit the number of instances where a fire within the hotel would lead to evacuation of the station and vice versa.

2.317 The compulsory purchase of the land adjacent to the Millennium Hotel's western gable would create a different boundary condition from that which currently exists. A building warrant would not be granted if it was proposed to include unprotected (not fire rated) openings directly on a boundary. The solution as currently proposed provides a secure and fire safe solution to the station development, which is fully deliverable without

⁴⁴ [Network Rail note on Millennium Hotel windows](#)

the need for third party agreement. It is not currently proposed for the alarm systems to be interlinked between the Millennium Hotel and Queen Street Station. In the event of a fire in the hotel, the station would remain a place of relative safety and it should therefore not be necessary to evacuate occupants from the station immediately. It is expected a similar arrangement would apply to the hotel. It would be difficult for Network Rail to support a proposal which rendered the station vulnerable to evacuation in this situation.

2.318 There are a number of challenges in retaining / reinstating the windows facing the space between the buildings. The important considerations for Network Rail are as follows:

- the developed proposal must not introduce an unacceptable safety risk for the operation of the station;
- the revised proposals must comply with Network Rail's obligations in regard to managing public money;
- responsibility for managing the space between the buildings needs to be agreed; and
- the revised proposals would need to be agreed with the station operator Abellio ScotRail Limited;

2.319 There are also a number of practical issues, as follows:

- if the proposals require a smoke extract system or a sprinkler system for the space, the responsibility for the costs of such equipment, including maintenance, and its location would have to be agreed;
- whether the changes in likelihood of the fire detection systems being triggered would be acceptable to Network Rail and ScotRail's fire officers;
- having rooms looking into the void could potentially create other issues such as noise from one room entering another, excessive heat build-up, ventilation issues etc. Both parties would need to agree where the responsibility for such issues would lie;
- windows in the western gable would only be of use if the proposed roof over the space was substituted with a glazed roof or skylights. Both options would increase cleaning requirements and would cost more than the current design. Responsibility for these costs would have to be agreed.

2.320 Network Rail is willing to examine the possibilities for retention of a fire escape for the hotel and for the retention and reinstatement of the windows on the western gable. However, Network Rail cannot fetter its discretion in terms of its decisions on requirements of operational matters, security, terrorism and fire safety. In the event that Network Rail determines this proposal cannot be developed then the loss of rooms would be a matter to be determined under the Code of Compensation. The time available to develop this is short, given the proposed start date for works. Network Rail proposed that discussions into the feasibility of the alternative proposals should continue until 25 August 2016.

2.321 Network Rail and Archyfield have been in discussion about the possibility of an alternative solution to the blocking of the windows on the west elevation of the hotel since the inquiry closed⁴⁵. In short, a possible solution has been presented by Archyfield but it requires further investigation before Network Rail can decide whether the solution might be adopted. If the solution were to be acceptable, further consents would be required. Network Rail cannot at the moment assess how long this might take. The reason for

⁴⁵ [Email from Alison Gorlov to DPEA dated 2 September 2016](#)

the 10-week discussion period was to ensure that the timetable for the Order should not be disrupted. What has emerged in that period is that any change cannot yet be properly finalised. Network Rail does not oppose the principle of Archyfield's proposals. If planned discussions with Archyfield and others produce a viable alternative for which consents can be obtained Network Rail will pursue that hereafter with Glasgow City Council by way of application for full planning permission and listed building consent. Meanwhile, the Archyfield alternative is not at a stage where it can be pursued as part of the TAWS application and Network Rail requests the Scottish Ministers to consider only the amended Order proposals.

Other matters

2.322 There has been full compliance with the terms of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 and observance of the terms of the Technical Guide to the Transport and Works (Scotland) Act 2007 (PD-26).

2.323 On the subject of consultation, there was compliance with Rule 8(1). The process was essentially a formal one, a significant part of which was to raise public awareness of what was proposed so that there could be full public participation. The more personalised consultation process with those likely to be directly affected by the scheme was described in evidence by several witnesses. There were discussions with Archyfield and LS Buchanan for a number of years. Both of those "consultation" processes dated back to at least 2012 and involved commercial considerations not directly related to the Order scheme.

2.324 For example, the background to Network Rail's engagement with LS Buchanan was described in the context of Network Rail's desire to find a productive use for the station car park which was otherwise substantially surplus to requirements. That led to the proposal to include certain uses required by Network Rail in an extension to the Buchanan Galleries which would be built on part on the station car park. That in turn provided a potential opportunity for Archyfield to link an extension to their hotel to the north with an extension to the Galleries. Although planning permission was obtained for all of this, no binding agreements were reached and in July 2015 LS Buchanan announced that their project was being put on hold. Network Rail lodged the present applications in September 2015. This was the somewhat unusual background to the "consultation" process between Network Rail and Archyfield and between Network Rail and LS Buchanan.

2.325 Various criticisms of the environmental statement and its addendum were also made by Archyfield. The requirements of the Applications Rules with regard to the carrying out of an environmental impact assessment and the provision of an environmental statement have been fully met. Various aspects of methodology were tested in cross examination of Network Rail's witnesses and were not found wanting. In particular, the requirements of Rule 9 of the Application Rules have been met. A recurring theme of Archyfield's criticism of Network Rail's approach to the Order has been its alleged failure to consider alternatives, as required by Rule 9(1) (d). Three of the options which were considered by Network Rail are to be found in the environmental statement at paragraph 2.4.2. None of those options included the retention of the 1970s hotel extension because that was never an option which would have delivered the primary objective of the scheme, namely three extended platforms capable of accommodating eight-carriage trains in a safe station environment, all as explained in Network Rail's evidence.

2.326 With regard to the question of whether or not Consort House is a listed building the reason for including Consort House in both the listed building consent and conservation area consent applications was explained by Network Rail's planning witness. Glasgow City Council considered that Consort House was a listed building, whereas Historic Environment Scotland thought that it was not. Network Rail considers that Historic Environment Scotland's view that Consort House is not a listed building is correct. Consort House could not be seen as ancillary to the station building and accordingly it is not listed. This is supported by the judgement in *Debenhams PLC v Westminster City Council*, [1986] 3 WLR 1063.

Clarification submitted after the close of the inquiry⁴⁶⁴⁷

2.327 The environmental statement identifies the criteria adopted for including projects in the cumulative effects assessment baseline, namely: (a) under construction; (b) permitted but not yet implemented; or (c) submitted but not yet determined. At the times when the environmental statement and the addendum were prepared the electricity substation, fire sprinkler tank and staff accommodation building did not come within any of these categories. They were not at a stage of development when they were capable of environmental cumulative effects assessment. Accordingly, at the time the addendum was prepared the three elements did not form part of the baseline for the cumulative assessment of the TAWS works.

2.328 The original plan was for the three elements to be constructed by LS Buchanan Limited (LSB) in plot no. 26 as part of their scheme for extending the Buchanan Galleries shopping centre, which was to commence prior to the start of any of the TAWS works. Had that happened the three elements would have been under construction during the TAWS works and would have formed part of the cumulative assessment baseline. This was what was contemplated at the time of Network Rail's request for a screening opinion made to the Scottish Ministers in August 2014 and was reflected in the formal request. The draft environmental statement issued for consultation proceeded on that basis.

2.329 LS Buchanan elected to put their development on hold until after the EGIP works at Queen Street Station, including the TAWS works. As a result Network Rail determined that aspects of the environmental and other TAWS documentation had to be revised to take account of this late change and deferred the TAWS application until 11 September 2015 to allow for the appropriate changes to the application documents. At that stage there were no designs for the three elements and it was not feasible to prepare them in time for the TAWS application. That is why the Order as originally applied for sought only planning permission in principle for these three items. The position remained that there was insufficient detail to include them in the environmental statement of the TAWS scheme.

2.330 In May 2016 Network Rail removed the three elements from the Order proposals and decided to provide them using permitted development rights and the necessary adjustments were made in the plans and elsewhere. This was done in order to ensure that the three elements could be progressed separately but in a timescale consistent with the TAWS works. The effect was that the three elements no longer formed TAWS works subject to environmental assessment as part of the TAWS project but were to be a separate project. Potentially, therefore, they could form baseline projects for the TAWS cumulative

⁴⁶ Affidavit of Alastair Camelford dated 16 September 2016

⁴⁷ Affidavit of Fraser Maxwell dated 16 September 2016

assessment, but this could not become actual until the three elements were sufficiently defined to be capable of forming the baseline for an assessment.

2.331 The three elements have now been designed and Network Rail applied to Glasgow City Council under Part 11, Class 29, for prior approval of the structures that will be required, on the 10 August 2016. Careful consideration has been given to whether these designed works would alter the cumulative assessment of the TAWS works as already carried out. Network Rail's conclusion was that they would not, and that a further cumulative assessment including the three elements in the baseline would confirm this conclusion. This is because the three elements:

- (a) are of a relatively small scale;
- (b) are of only local significance;
- (c) in terms of sensitivity within the conservation area, are of limited visibility from outside the redline area;
- (d) do not involve the construction of any hazardous operation; and
- (e) have only limited environmental effects, typical of most city centre development projects, which can be managed through specific control and consent regimes and through the experience and best practice processes of Network Rail and its contractors.

2.333 Network Rail also took the view that the principal potential cumulative effects, to be considered would be noise and dust, and the townscape. Regard was had to the mitigation and control measures for noise and dust effects that will be in place, through the project Code of Construction Practice (applicable to the TAWS works) and Network Rail's environmental management systems (applicable to the three elements). It is Network Rail's considered view that any impacts will not be significant. There is nothing in the construction proposals which is out of the ordinary for city centre redevelopment. The demolition works consist of demolition of a single storey building and its replacement with a two storey development with a decked car park above, with a total gross internal area of 2,540 square metres.

2.334 Network Rail's opinion is that the inclusion of the three elements in the baseline for cumulative assessment would not be likely to result in there being significant cumulative effects. This conclusion was confirmed by the treatment of the Buchanan Galleries development and the views of the statutory consultees on the screening consultation in 2014. That screening request was in relation to the draft TAWS Order (which at that time did not include the three elements). The screening request considered the cumulative impact of the TAWS works with the expansion of the Buchanan Galleries Shopping Centre extension and the new multi-storey car park in plot no. 26 being under construction concurrently with the TAWS works, as had been planned at that time. The Buchanan Galleries extension development itself is of a scale multiple times that which is proposed for all the three elements.

2.335 During the screening request consultation relating to the TAWS works, when asked to consider this much larger and significant cumulative effect of overlapping construction projects, all the statutory consultees advised that they did not consider the resultant impacts worthy of an environmental impact assessment. Network Rail took the view that as these consultees had reached this conclusion in relation to the TAWS and LS Buchanan works together, they would not be concerned by the TAWS works being constructed alongside the three elements.

2.336 The environmental statement addendum considered the following schemes that were an addition to the cumulative impact assessment within the original environmental statement:

- (a) Buchanan Galleries extension and erection of new car park;
- (b) Demolition of perimeter wall of Glasgow Queen Street Station and alterations to engine shed roof; and
- (c) Demolition of existing buildings in Queen Street Station, North Hanover Street car park.

2.337 Collectively these schemes added a significant quantum of demolition and construction activity to the North Hanover Street car park. This did not result in significant residual impacts being identified that would be likely to be a material consideration in the decision making process for the scheme. The exception to this was the night-time noise criteria at the Millennium Hotel, which were subsequently assessed further, and mitigation investigated with the aim to achieve a reduction in internal noise levels through the provision of secondary glazing, including ventilation.

2.338 The construction of the electricity substation, fire sprinkler tank and staff accommodation building would be entirely within the redline boundary of the station redevelopment scheme. The buildings would be of a limited height that will not exceed that of surrounding buildings or infrastructure. The demolitions would take the existing structures down to slab level, and so no significant groundworks would be undertaken, for example, excavation or piling, and the quantum of new build for the accommodation block is limited to relatively small structures in relation to other works consented for the Buchanan Galleries. The demolitions required to allow the construction of the three elements have already been assessed within the environmental statement addendum. As a result no further cumulative impacts relating to demolition are anticipated, which in turn means that no further assessment is required.

2.339 Other points of note include:

- (a) Air quality: the works would generate limited or negligible additional traffic and demolition mitigation (for example, for dust) is already assessed and agreed within the environmental statement addendum. The addendum already states that Network Rail could seek to programme works to limit cumulative effects.
- (b) Built heritage: the addendum concludes that the station redevelopment and Buchanan Galleries' extension will largely result in cumulative effects that are beneficial to the historic fabric of the receptors and their setting.
- (c) Station users: even with further construction work in the North Hanover Street car park, safe access to the station for station users would still be maintained so that the works would not result in changes to station facilities or traveller care.
- (d) Noise and vibration: works in this area would be in close proximity to noise sensitive receptors at the Millennium Hotel and the City of Glasgow College, but noise would be regulated by Glasgow City Council together with the implementation of the Code of Construction Practice (in relation to the TAWS works) and Network Rail's environmental management systems (which will be applicable to the

construction of the three elements). On this basis the addition of the three elements should not significantly alter the noise levels already assessed.

(e) Traffic and transport: cumulative and residual effects as a result of the three schemes listed above were assessed in the addendum, and no changes to impacts identified were considered to be significant. It is unlikely the addition of the three elements will alter this position.

(f) Townscape and visual: the magnitude of changes attributable to the addition of the three elements to the baseline would likely be negligible, and any changes to significance of effects would also be likely to be insignificant. During operation of all developments the improvements to the public realm in the area will generally bring about beneficial impacts.

2.340 In summary, Network Rail considers that it is very likely that no new significant effects and impacts would be identified as a result of any further cumulative assessment that adds the three elements to the baseline.

Conclusion

2.341 Scottish Ministers are invited to make the Order in form of the latest draft Order, or subject to such changes as they may see fit to make. They should also make the direction sought under section 57(2A) for deemed planning permission subject to the conditions specified. If they consider that Consort House is not a listed building, they should grant listed building consent and conservation area consent in terms of the applications before them, but under deletion of reference to Consort House in the listed building consent. Alternatively, if they consider that Consort House is a listed building, they should grant listed building consent in terms of the application before them but refuse the application for conservation area consent.

CHAPTER 3: THE CASE FOR ARCHYIELD LIMITED

The Millennium & Copthorne Hotels^{48 49}

3.1 Archyfield Limited is the operator of the Millennium Hotel Glasgow and a part of the Millennium and Copthorne Hotels group of companies. Millennium and Copthorne is a global hospitality management and real estate group, with 126 hotels in Asia, Australasia, Europe, the Middle East and North America. The company owns or operates 24 high quality hotels in significant gateway cities or landmark locations in the UK. Due to its global footprint, Millennium and Copthorne is able to meet its customers' needs in Europe, USA, Asia and New Zealand and offers its customers the seamless benefit of a global loyalty membership scheme. In order for its business model to be commercially successful, the company must be able to offer its hotel services in key business centres and gateway cities.

3.2 The Millennium Hotel Glasgow is an iconic building which retains its original façade and architecture. In 1999, Millennium and Copthorne refurbished and rebranded the hotel as one of the first "Millennium" branded hotels in the UK to open outside of London. The "Millennium" brand is the company's premium brand. The hotel is Millennium and Copthorne's flagship property in Scotland, promoting the Millennium brand in the north of Britain and is popular with business and leisure travellers alike. In 2014, the hotel was one of the best performing regional gateway city hotels in the company's UK portfolio. In 2015, the hotel generated total sales in excess of £4 million of which £1 million was gross operating profit. The hotel consistently performs above the Scottish market average and out-performs its competitor hotels in Glasgow. The hotel has the highest occupancy rate of Millennium and Copthorne's UK regional gateway hotels, which illustrates the contribution of this property to the company's profitability and reputation, and the strength and the value of the hotel's central city location.

3.3 The hotel currently has 117 rooms. If the Order proceeds, this will be reduced to 66 rooms, nearly a 50% reduction in room capacity. The Brassiere on George Square is a destination restaurant with its own entrance and conservatory overlooking the square. There is a terrace lounge/bar and separate bar which generates in excess of 5000 covers. The loss of the extension will have a critical impact on the hotel's business model and profitability. Currently the hotel is classed as an "international 4-star deluxe" hotel. The reduction of rooms would effectively move the hotel into the "boutique" category of hotels, impacting on the number and type of reservations/customers it would be able to accept in the future. For Glasgow to lose an international class hotel in its centre would have wider adverse economic implications on the surrounding businesses. The loss of the hotel would have a major impact on local public facilities and national and international travellers visiting the city.

3.4 The profitability of the hotel would be severely and detrimentally impacted. The fixed business costs would not reduce proportionately to the reduction in room numbers. For example, the reduction in rooms would force a reduction in staffing headcount while key personnel such as the General Manager, Financial Controller and Head Chef would need to be retained and the costs for this absorbed into the remaining room prices. Although the overall headcount would be decreased, the payroll margins would increase and negatively impact the overall profitability. The hotel currently employs a total of 98 full and part time

⁴⁸ [Clive Harrington, precognition](#)

⁴⁹ [Tricia Fitzsimons, precognition](#)

staff, a full time equivalent of 75 jobs. These roles include management, hotel operating staff, sales & marketing and repairs and maintenance. There are a number of long serving and loyal staff members with 19 having worked at the hotel for more than 5 years and several between 15 -30 yrs. Employees made redundant would not be able to be absorbed elsewhere in the hotel. The loss of experienced and loyal staff would represent a huge loss to Millennium and Copthorne which cannot be adequately addressed simply by a payment of compensation.

3.5 Only a handful of the guest rooms (less than 8) lost from the removal of the 1970s extension could be replaced within the existing Georgian building. However, in order to achieve this the existing first floor meeting rooms would have to be converted, resulting in a significant loss in meeting room revenue and food and beverage sales for the hotel, as well as the loss of a well-used facility for civic and business events in a prominent city location. No other areas of the hotel could accommodate additional guest rooms and there are no other mitigation measures available within the Georgian building.

3.6 The hotel would not be able to accommodate its normal business mix. In particular, the hotel would find it difficult to cater the current demand for groups/tours. This business requires a greater degree of flexibility in room types and often twin accommodation is required. The majority of the hotel's twin accommodation is currently located in the extension. Further, this business, if continued at current levels would block out retail and corporate business.

3.7 Network Rail has failed to properly consider the alternatives. Millennium and Copthorne has invested a considerable amount of time, expense and effort in developing possible alternatives which would enable the hotel to continue to trade in line with its current model. This would preserve the hotel as an important asset for Glasgow in its current use, whilst also meeting the wishes of Network Rail.

3.8 Whilst Millennium and Copthorne is committed to the hotel and to keep it trading, confirmation of the Order in its current form would have a significant impact on facilities, services, profit levels and staffing levels. Closure of the hotel would result in a significant loss to the public of a key asset in beneficial use at a key location within Glasgow and the potential loss of considerable disposable leisure income being spent in the city.

Access to the hotel⁵⁰

3.9 The hotel has access over the carriageway, pavements and ramp to the front of the extension. This is the west side entrance to the hotel and where the daily deliveries arrive, including food and linen. The remainder of the deliveries are twice weekly beverage deliveries which were delivered (prior to the closure of the station) to the rear of the hotel and are now relocated to the front loading bay. Access to the refuse area is currently at the back of the hotel as no alternative site could be located.

3.10 Non-residential customers utilising the food and beverage outlets would enter generally by the front entrances off George Square. Transient residential guests would normally arrive by train, taxi, car and typically enter by the west side entrance which is the nearest to the station and the vehicle drop off point. Coach arrivals previously dropped and entered at the front entrance however, this is now a taxi rank and re-locating the coaches to

⁵⁰ [Tricia Fitzsimons, precognition](#)

the loading bay space is likely to change that entrance for customers to the west side. Customers normally depart in the location they arrive.

3.11 The Order proposes to remove the hotel's access to the front, the west and the rear of the hotel. It is not clear how the hotel would be serviced and Network Rail has not made any proposals in this regard. Clearly it would be detrimental to the hotel to service from the same entrances as those used by guests and customers; refuse could not be trailed through any hotel and out through the front door.

Planning issues⁵¹

3.12 Planning powers would normally be used to secure the best possible outcome for the proper planning of the area as a whole. This role would normally be exercised by the relevant local planning authority. The Order promoted by Network Rail takes this role away from the local planning authority by requesting that, in approving the Order, Scottish Ministers also grant deemed planning permission. Network Rail could have lodged a planning application with the local planning authority using normal processes. It chose not to do so.

3.13 Had such an application been lodged with the local planning authority, it would have been classed as a major planning application and been subject to the required public consultation process for such an application. In determining the application, the local planning authority would have assessed the proposal in the normal manner, firstly in relation to the development plan and then in relation to any relevant material considerations. In opting to promote the development and seek deemed planning permission via a TAWS Order, rather than via the normal planning process, Network Rail should not be able to side step such scrutiny.

3.14 Archyfield considers that, had it been able to exercise its proper role as planning authority, it is unlikely that the city council would have approved Network Rail's proposals in their current format. The proposals remain in an unsatisfactory state. Development proposals of this scale and nature always benefit from full consultation and an engagement with the relevant authorities and with other parties which have a direct interest. These processes can result in a complete reappraisal of the fundamental design approach to a project. Even when they do not, the iterative approach to improving the original design concept results in a scheme which is significantly improved for the benefit of all. This is important because, once implemented, the proposed development is likely to remain in its basic format for at least half a century.

3.15 The entire consultation process has been flawed and inadequate. The ministerial guidance (PD-26) sets out the clear advantages of a "comprehensive consultation exercise involving an open and constructive dialogue with those most likely to be affected". It states that such an exercise can:

- Provide helpful feedback into the design development process, which can lead to desirable changes being made;
- Help allay fears and suspicions that can sometimes arise simply from lack of information about what is proposed; and
- Limit the objections arising once an application is formally made.

⁵¹ [Brian Muir, precognition](#)

None of the three aims of the consultation process, as set out in the ministerial guidance has been achieved. The nature of that consultation process is fundamental to the quality of proposals which are before the inquiry.

3.16 All of the options considered by Network Rail responded to a common assumption that the removal of the 1970s extension to the Millennium Hotel is required to provide a column free overrun risk zone. It is Archyfield's evidence that the columns of the Millennium Hotel intrude only 1 metre into the 20 metre overrun risk zone. This being the case, Network Rail should have undertaken an assessment of design options which could have assessed whether or not a 20 metre zone (rather than the 19 metre zone) could have been obtained without recourse to the demolition of the hotel extension.

3.17 The tone of the approach taken by NR in relation to this project seems to be "this is how it needs to be done". There is no explicit assessment of alternative ways of achieving the overall objectives of a modern well-designed station upgrade. Rather, the preferred proposal appears to have been decided on, with justification for that approach being thought of afterwards.

3.18 Archyfield considers that, had the supporting documents for the TAWS Order been submitted to Glasgow City Council they would be considered inadequate to support the approval of the scheme. It seems that less effort has been put in to making the documents as rigorous as they would have to be if they were being assessed by the local planning authority.

3.19 Little serious thought has been given to design options and to the integration of the proposed new station extension with the surrounding land-uses and activities. At a fundamental level it may be that there are different ways of achieving the 20 metre overrun risk zone. If there are, then one of the baseline assumptions for the entire design approach is flawed. But even if the only viable design option for achieving the 20 metre overrun zone is indeed the demolition of the modern hotel extension, the station-wide design options stemming from that have not been subject to the "wide and thorough consultations" and the "open and constructive dialogue" required by Scottish Ministers (PD-26).

3.20 In April 2015, Glasgow City Council granted planning permission for the proposed extension to the Millennium Hotel (MH3 and MH9). This application was submitted in an attempt by Archyfield to off-set the commercial impacts of Network Rail's approach to the redevelopment of the station, as Network Rail had not sought itself to deal with these matters. Network Rail's principal response was to object to the application, an objection which was not withdrawn even after Archyfield amended the proposals in response to the objections.

3.21 The purpose of this proposal was to provide an option for the replacement for the bedrooms which would be lost if the 1970s extension were to be demolished in a way which Archyfield considered would not compromise Network Rail's proposals for Queen Street station. Included within the proposal was a proper integration into Queen Street station and into Buchanan Galleries from the rear of the existing hotel. Archyfield considered that this would significantly improve the proper planning of the area as a whole.

3.22 Archyfield had proposed a holistic approach for the development of this part of the Buchanan Quarter, consistent with best practice in European cities. From Archyfield's point

of view, it is unthinkable that the hotel and the railway station concourse should not be fully connected both visually and functionally. The divorcing of the two would miss a once in a lifetime opportunity. Network Rail's current proposals (divorcing the two uses and also failing to address the key issue of the replacement of hotel space) are unacceptable in this regard. Redevelopment of Queen Street station, whilst necessary in some form, should not be undertaken in the proposed form, at the expense of all other developments which are in the public interest, which are sustainable, and which contribute to the economic and civic vitality of the city.

3.23 It is Archyfield's view that an assessment of the development proposals against the provisions of City Plan 2 lead to the conclusion that, in all normal circumstances, the current proposals would result in a refusal of planning permission and conservation area consent.

3.24 The reason for the inadequacy of the proposals is contained in Network Rail's Planning Statement, which states "the primary purpose of the redevelopment is to provide for growth and capacity of passenger numbers and train lengths. The proposal achieves that within and around the existing station site". This focus on this "primary purpose" has deflected attention from how the entire facility could properly integrate with the surrounding land uses and activities.

3.25 Evidence of Glasgow City Council's frustration with the whole process can be found in the text of the Report of Handling for Archyfield's planning application for the Millennium Hotel (MH9). In the planning officer's comments on Network Rail's objection to the Millennium Hotel application, it is stated: "in not submitting a planning application for their own proposal to redevelop the station, Network Rail has made it difficult to assess and if necessary mitigate these issues". This comment can also apply to the council's inability, as planning authority, to assess any implications, for the surrounding area as a whole, of Network Rail's proposals.

3.26 The correct planning approach is to fully coordinate all the proposed developments, for the greater benefit. Glasgow City Council, as local planning authority, tried to promote this coordination. It failed because Network Rail was unwilling to engage. Network Rail's focus has been on Queen Street Station and that alone. In pursuing this focus, Network Rail has failed to understand the necessity for it, as a public body, to contribute to the proper planning of the area as a whole, and to cooperate in that process. It seems clear to Archyfield that Network Rail is quite prepared to see the continued presence of a hotel on George Square undermined, and perhaps extinguished.

3.27 Scottish Ministers should not be pressurised into approving the current scheme just because of the late stage in the project. The scheme must be right. If it is not right, the implications for the proper planning of the Buchanan Quarter could be very serious.

Railway issues⁵²

3.28 Archyfield fully understands and appreciates that protection of structures from buffer stop overruns is a serious issue and compliance, as far as practicable, with the standards set out in the relevant documents is crucial in reducing risks to the minimum acceptable level. In this context, Archyfield acknowledges that the location of Queen Street at the foot of Cowlares Incline, approximately 1¼ miles long with a ruling gradient of 1 in 45 and almost

⁵² [Bernard Hulland, precognition](#)

wholly in tunnel, imports a heightened risk of braking problems, and consequent over-run, to trains approaching the station. It is expected that this additional risk would be factored-in to any assessment that may be undertaken.

3.29 Archyfield also acknowledges that the limited space available between the tunnel portal and the platform ends means that southwards extension into the concourse is the only practical means of achieving the required increase in platform length necessary to accommodate longer trains.

3.30 The Millennium Hotel is not a new structure. It is the lengthening of the platforms southwards required by the constraints of the station footprint which gives rise to the conflict. Archyfield's architect has assessed the extent of the intrusion into the 20 metre zone against the planning application plans. These indicate that there is no more than a 1 to 2 metre overlap (Figure 1, MH 6).

3.31 In order that both parties can understand the degree of risk involved and given the potential detrimental impact on the Millennium Hotel if the extension were to be removed, it would seem to be reasonable for Network Rail to conduct a risk assessment in accordance with the provisions of the standard. This would establish whether extension of the platforms actually imports an unacceptable degree of additional risk. This risk assessment should be conducted and the results used to make an informed and impartial decision of the way forward, and in particular whether demolition of the hotel extension is really the only way to preserve the necessary safety margins to mitigate the potential effects of a train over-running the buffer stops.

3.32 Network Rail appears to accept that an assessment is appropriate. Archyfield, however, has not seen any such risk assessment and none has been provided to the inquiry. In the event that the 20 metre standard cannot be met, part of the assessment should include the potential for mitigation. There might be a number of possible mitigation measures, but it would appear that none have demonstrably been considered by Network Rail in developing this project.

3.33 One option might have been to consider redesign and modification to the extension which avoided, or at least decreased to an acceptable level, any risk of collision damage. Another possibility might be a slightly shorter extension of the platforms to bring the 20 metre zone back from the supporting pillars. It is platforms 2, 3, 4 and 5 which are said to require the demolition of the extension. There does not appear to be any evidence that consideration has been given to the possibility of adjusting the proposed platform lengths in order to preserve the over-run margin, while still retaining the ability to accommodate trains of the required length.

3.34 A third possibility might be the installation of an improved buffer stop designed to contain the higher forces resulting from the particular configuration of the station approaches. Archyfield accepts that this might not be technically feasible and could also limit the achievable platform length, but there is no evidence that it has been considered.

3.35 Network Rail's standards for concourse areas at stations are set out in the Station Capacity Assessment Guidance (PD-21). In the case of terminal stations such as Glasgow Queen Street, the requirements include:

- An area large enough to accommodate 100% of the “Peak 15-minute Total of Entering Passengers” at a density of 1 square metre per person;
- A clear 2-metre wide walkway between the station entrance/exit and the platforms to accommodate a minimum of 40 passengers per minute per metre; and
- A clear 6-metre “run-off” area in front of the platform gateline.

3.36 While Network Rail’s Response to Archyfield’s objection makes a number of statements regarding the effect on the design and operation of the concourse of retaining the hotel extension, it does not include any indication that the concourse has been tested against these criteria, nor that it would be seriously non-compliant. If any assessment that may be undertaken does conclude that compliance cannot be achieved, there is the option of reviewing and interpreting the outputs, and, if necessary, seeking derogation from the standards in the light of the particular circumstances that prevail at that location. Indeed the preamble to the Station Capacity Assessment Guidance includes the following statement: “The creation of a spreadsheet or a simulation model is not the end in itself: it is the interpretation and the consequential professional advice that counts. Ultimately, it is this last action that addresses the safety and commercial objectives of the project”.

3.37 In the light of the serious effect that demolishing the 1970s extension would have on the hotel business, it does not seem unreasonable to expect that all practical means of retaining and accommodating the building are fully explored before concluding that there is no alternative to its removal.

3.38 With regard to the requirement to maintain a 20-metre over-run “buffer zone” behind the platform ends, there is insufficient information before the inquiry to allow Network Rail to make the comment made in its Statement of Case that: “It would also be impossible to create the column free buffer zone required by Network Rail safety standards. Put simply the station would be unable to operate, which would result in severe disruption to passengers and the economy”.

3.39 Network Rail’s standards contain provisions to undertake assessment of the risks imported by infrastructure alterations at locations where existing structures may impact on compliance with those standards. There is no evidence that such assessments have been carried out in this case, and it would seem reasonable to ask that this is done in order to provide clear evidence as to whether demolition of the structure is really the only available option, or not.

3.40 Similarly, there is no data that clearly proves that compliance with the standards for circulating space and access cannot be achieved without demolition of the extension, nor any evidence that an assessment as to whether some relaxation of these standards can be accommodated in the light of the particular circumstances pertaining at Queen Street. Therefore, Network Rail has not demonstrably justified its position that demolition of the Millennium Hotel is absolutely necessary in order to achieve these requirements.

3.41 During his evidence in chief and under cross examination, Archyfield’s witness explained that the behaviour of a train during an accident is unpredictable. He accepted that matters such as safety of buffer stops is a matter of professional judgement and, as the law stands, the responsibility for such matters lies with Network Rail. Moreover, he agreed Network Rail is entitled to rely on the expert advice of its own witness at the inquiry on these matters, who is in turn entitled to reach the professional conclusions which he has. Archyfield’s witness explained that he was not questioning Network Rail’s witness’

professional judgement and he was not suggesting that safety should be compromised. The thrust of his argument is that there should have been dialogue so that Archyfield could understand the reasoning behind the decision that the hotel extension had to be demolished.

Architectural issues⁵³

3.42 In the summer of 2014, design options were developed to take account of the intended new station requirements, and the new L S Buchanan retail space and car park proposed to the existing station car park, to the north of the hotel. This was to safeguard the possibility of hotel rooms being lost by the removal of the extension to the station frontage and to restore and enhance the hotel's main listed building, providing a fully integrated hotel and station complex.

3.43 This approach was well received by Glasgow City Council who considered this to be a great opportunity to create a unified design. The planning authority considered that it was essential that the historic B-listed hotel building was retained and the hotel use preserved because it is the oldest building in George Square and the last surviving example of the Georgian houses that originally lined the square.

3.44 Historic Environment Scotland stressed the importance of the existing hotel building and its use being preserved. It states that the long-term sustainability of the B-listed Millennium hotel building needs to be taken into account in the decisions made on the TAWS order.

3.45 Archyfield's architects designed an extension to the north of the hotel to infill the air space between the listed hotel and the dominant multi storey car park proposed by Land Securities. The scheme consisted of an extension directly north of the main hotel relocating the guest rooms from the extension and providing additional rooms and facilities together with improvements and restoration work to the existing listed hotel building. The scheme is explained within the Design Statement submitted with the planning application (MH4). On 21 April 2015, Glasgow City Council granted planning permission for the alterations and extension to the Millennium Hotel (MH 3). The Report of Handling is found at MH9.

3.46 If the Buchanan Galleries expansion, under the northern hotel extension, was to proceed then this northern extension could be built to the co-ordinated designs already prepared. Without the retail scheme, Network Rail can place the supporting columns in locations to suit their particular and different requirements because the extension has been designed with a transfer structure below its lowest floor to give maximum freedom for the location of the supporting structure below.

3.47 Network Rail's detailed plans lodged with the Order show the 1970s extension incorrectly positioned. Their demolition drawing Z0(PL)AP004 shows the critical north face of the 1970s extension between 2 metres to 3 metres further north than its actually is. The hotel's own survey drawings confirm the north wall position and the hotel's measured survey has been overlaid on Network Rail's demolition drawing which indicates this significant discrepancy (MH 10). After correcting this inaccuracy, the 1970s extension impinges within the 20 metre zone by what Archyfield has assessed to be in the order of 1 metre (MH6 Figures 1 and 2). This is only a small impingement which could, in any case,

⁵³ [Robert Emery, precognition](#)

be completely avoided if the platforms were able to be extended northwards by this small amount or if it could be agreed that shortening of the overall platform length by this amount was not critical. The proposed platform lengths stated by Network Rail are of varying lengths.

3.48 Rail Industry Guidance (PD-9), makes it clear that alterations to an existing structure or track layout shall not cause a structure that is outside the overrun risk zone to come within the overrun risk zone. The guidance also acknowledges that existing structures may sit within the overrun risk zone. It provides an approach for assessing the risk from trains overrunning a buffer stop when either new structures, or alterations to existing structures or track layouts, are being considered in the overrun risk zone. This guidance identifies that Network Rail needs to undertake risk assessments in meeting the requirements of the Rail Industry Guidance. These risk assessments have previously been requested by Archyfield but have not been provided.

3.49 If the 1 metre approximate impingement is deemed critical it would be possible to modify the 1970s extension to keep it beyond the 20 metre zone. This can be achieved by relocating the north row of columns southwards by the required distance of approximately 1 metre. The rear façade at first floor would be set back in the same way to give the required clearance at platform level (MH6 Figures 3 and 4).

3.50 Opening up the new concourse directly onto Queen Street can be successfully achieved by removing the first floor rooms and enclosing walls to the extension but retaining the majority of the extension, with the second and third floors remaining. The column layout through this area of the concourse could also be regularised and simplified at the same time (MH6 Figures 8, 9 and 10 and MH 8, Internal View 3).

3.51 This approach would also offer the possibility of providing activity and interest at street level in the form of retail units to avoid what Glasgow City Council fear, which is an otherwise dead frontage. This retail use would replace the existing retail which will be otherwise lost as a result of the new open concourse and would create additional value (MH 8). A very generous open concourse area would still be provided with full visibility of the information screens and also with extensive views over George Square (MH8). This approach does not require the demolition of the extension and would deliver a cost-effective design that achieves Network Rail's objectives for the station upgrading works. There are undoubtedly other options available.

3.52 Glasgow City Council and Historic Environment Scotland require that the west façade of the listed hotel building be restored to its original design. Network Rail's proposals, instead, provide a solid wall in front of the hotel's west façade which would have a detrimental impact on the setting of the listed hotel building within the conservation area. They also block up the majority of the existing windows in the west façade which is unsatisfactory, and remove the current access to the hotel from the station. Fire separation can be provided between the concourse and hotel by much more discreet methods, utilising fire-engineered design solutions, which would enable the hotel façade to be visible within the concourse space.

3.53 Network Rail has assumed from the start that the 1970s extension is to be demolished but for the reasons explained above its demolition is not justified. If it is considered necessary to address the minor interference of the extension within the 20 metre zone then the most sensible economic solution would be to modify the 1970s

extension as explained, which would also successfully provide an appropriate urban design response. If it is finally determined that the 1970s extension is to be removed then Archyfield has already put in place the solution to re-provide the guest rooms which would be lost within the proposed north extension with the benefit of planning consent.

Summary of closing submissions⁵⁴

3.54 Archyfield's primary position is that the Order and permission and consents sought should be refused. If the Scottish Ministers consider that the fundamental problems with this project can be rectified, then Archyfield's alternative position is that the Order should not give Network Rail compulsory acquisition powers in relation to the 1970s extension to the hotel which forms part of plot 1. This would allow all relevant parties an opportunity to bring forward a holistic development of the station, hotel and LS Buchanan proposals consistent with Historic Environment Scotland's and Glasgow City Council's desires. As there is no sound basis for the compulsory acquisition of Archyfield's property interest, that element of the Order could not in any event be made and the Order requires to be amended to delete the compulsory acquisition powers in relation to the 1970s extension.

3.55 Archyfield's objection must be seen in the context of the legal framework relevant to the Order and the consents sought. The key points are that:

- in considering the Order all relevant considerations must be taken into account;
- in relation to the compulsory acquisition of property rights, Network Rail must show that it has assessed the alternatives properly and that the effects of the proposal and the impacts on the people affected have been considered properly. Network Rail is required to demonstrate that the compulsory acquisition of the 1970s extension is necessary. Accordingly, whether there is an alternative way of carrying out the aims of the scheme without the need for (or with a reduced need for) compulsory acquisition must be a prime consideration for the Scottish Ministers;
- in relation to the environmental effects of the proposal, Scottish Ministers must be satisfied that they have sufficient information on what is proposed and on its environmental effects. They must also be satisfied that the proposals are sufficiently controlled to ensure that the project is carried out within the parameters of what was assessed and that the mitigation measures considered in the assessments are applied; and
- in relation to listed building and conservation consent, the legal framework and requirements are set out in the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Accordingly, in considering the listed building consent the Scottish Ministers must have special regard to the desirability of preserving the listed building and its setting and any features of special architectural or historic interest which it possesses (Section 14(2)) and, in relation to the conservation area, the Scottish Ministers must pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Failure to consult properly

⁵⁴ [Archyfield's Closing Submissions](#)

3.56 The requirement to consult properly is central to the consideration of development proposals in Scotland whether they come through the planning, listed building or TAWS processes. It is advocated in Scottish Planning Policy (PD5). New Design in Historic settings (PD88) identifies that the key to success is communication with key stakeholders and consultees. The Scottish Government Technical Guide to Transport and Works (Scotland) Act 2007 advises that consultation with local authorities and other statutory and non-statutory organisations should take place at the formative stage of a project. The guide states that the carrying out of wide and thorough consultation in advance of an application is a critical part of the whole authorisation process.

3.57 The Scottish Ministers are required to decide on whether the consultation process is acceptable and compliant with Scottish Government policy. Those asked to participate must be able to make informed comments. Network Rail did not provide sufficient information on what was proposed for there to have been a policy compliant consultation process (see NR28 and NR110). There have also been considerable changes to the red line boundary throughout this process (NR7).

3.58 Network Rail explained that in order for Network Rail to consider an alternative scheme, agreement on the compensation value payable for the 1970s extension was necessary to allow for betterment cost to be calculated. Rather than achieving the best and policy compliant redevelopment of this key part of Glasgow's civic centre and meet the aspirations of Glasgow City Council and Historic Environment Scotland, Network Rail will instead advance its proposal because it wants to force Archyfield to agree to an under value of the 1970s extension. The compensation to be paid to Archyfield is not a factor for the exclusion of the consideration of alternatives or the adoption of a holistic approach. Such an approach and reasoning for rejecting a holistic approach to redevelopment is not based on Scottish Government policy and guidance.

3.59 A further major concern in relation to the process is the failure of Network Rail to identify what the Order will allow Network Rail to do. This has only partially been rectified during the inquiry. The whole objection process has been tainted by this fundamental error in the drafting of the Order. It is important to bear in mind the failings of the Order as drafted (NR2) when considering the extent to which the objection process can rectify defects in the earlier consultation process. In addition, it must be remembered that the deemed planning permission, listed building and conservation area consents sought have all been amended by Network Rail during this inquiry process.

3.60 The inescapable conclusion from all the evidence on the consultation process is that there has been a lack of engagement and Network Rail has not complied with the relevant Scottish Government policy. The process has not allowed consultees to make informed comments and it is clear that the evolution of the proposal has suffered as a result. It is unlikely that the proposal would be in the form it is in if there had been an appropriate consultation process and the proposal had come through the planning process. In such circumstances the planning authority would have had greater control over the process and Network Rail would have been required to consider properly the constructive comments of those consulted.

The failure of Network Rail to demonstrate that the compulsory acquisition of the 1970s extension is necessary

3.61 The TAWS Guidance provides that before confirming such powers, the Scottish Ministers will wish to be satisfied that there is a compelling case in the public interest for taking away a person's land or rights in land, and that all the land in question is required for the scheme. The applicant must be prepared and able to justify all compulsory land acquisition.

3.62 The circular 6/2011: Compulsory Purchase Orders (PD28) (the CPO guidance) makes the following key points:

- The authority should assess whether there is a suitable alternative way for it to realise its aims;
- It should also properly consider whether any alternative proposals put forward by other people would be appropriate;
- Where there is more than one site on which the scheme could be located, the authority should be satisfied that it has properly assessed the suitability of any alternative sites;
- The authority should therefore properly assess the public benefit in what it proposes against the impact on the people likely to be affected; and
- It should also properly assess any reasonable alternative ways that it might realise its aims.

3.63 It is clear from the evidence presented on behalf of Network Rail that it did not consider any alternative schemes that did not involve the compulsory acquisition of the 1970s extension and its demolition. In its Memorandum of the Aims of the proposal (NR8) Network Rail states:

- The options considered have looked at variations on how the additional space might be gained and developed rather than redeveloping the concourse within the current building footprint;
- There are some themes and assumptions that are common to all the options. The most significant of these is the requirement to remove the 1970s extension to the Millennium Hotel at the George Street frontage to the station. This must be removed under all options for redevelopment due to the requirements to have no structural columns within the "overrun risk zone"; and
- Pedestrian flow modelling undertaken during the initial option appraisals concluded that removal of Consort House is required to provide the concourse capacity necessary to maintain satisfactory levels of service for passenger circulation.

3.64 Network Rail's witnesses accepted that no consideration was given to alternatives that included retaining the 1970s extension or part of the extension. Network Rail has stated that the southern extension of platforms 2, 3, 4 and 5 requires the removal of the 1970s extension to generate a column free "buffer exclusion zone" in line with Network Rail standards and to accommodate a suitable sized concourse. However, Archyfield believes that, on any reasonable way of looking at the factual evidence and the relevant standards and guidance, that basis is unsupportable. Accordingly, the foundations on which the decision not to consider such alternatives is based are unsound.

3.65 Archyfield's architectural witness put forward possible alternative schemes which would involve the retention of part of the 1970s extension. The relevant Rail Safety Standard is contained in GC/RC5633 (PD37). The guidance on the standard is contained within GI/GN7616 (PD9). The key passages from the standard set out requirements for the

minimum distance between items on platforms and that new structures, including buildings and columns supporting canopies shall not be located within the overrun risk zone extending 20 metres behind the face of the buffer stop and 5 metres either side of the projected centre line of the track approaching the buffer stop. Archyfield's proposal shown on MH17 and MH19 complies with the standard and the guidance.

3.66 Archyfield's witness on railway matters set out that it was not reasonable and rational of Network Rail not to carry out a risk assessment of the alternatives that included retaining part of the 1970s extension. Archyfield's witness had no difficulty with Network Rail's evidence that removal of Consort House would require the construction of a new station frontage at that area of the site. This creates the opportunity to remove the 1970s extension, to construct an entirely new station frontage and the opportunity for compliance with section 6.3.2.1 of GI/RT7016 (PD-40) by creating a structure free 20 metre area beyond the buffer face. However, Network Rail has not properly addressed the key issue of consideration of alternatives.

3.67 At no stage did Network Rail consider schemes that involved the retention of the 1970s extension or part of it. Alternative schemes which can create an entirely new station frontage, comply with the guidance and standards and retain part of the 1970s extension are available. What Network Rail should have done was to carry out a risk assessment of the current position, the Network Rail proposed position and the Archyfield and other alternatives. In that way Network Rail and ultimately the Scottish Ministers can make an informed decision. Archyfield's witness concluded that the approach adopted by Network Rail was irrational and that it has not demonstrated that the demolition of the 1970s extension is required in order to achieve its aims.

3.68 Network Rail has chosen to ignore that it would be easy to design proposals which retained most of the 1970s extension, and had no structure within the overrun risk zone. The pillars supporting the 1970s extension would not need to be in the High, Medium or Low risk areas of the overrun risk zone. The pillars outside the overrun risk zone could also be made impact-resistant if any risk assessment required that work.

3.69 Archyfield has put forward one alternative scheme which would be compliant with the guidance and standards, would allow Network Rail to extend the relevant platforms, provide it with a concourse of the size it desires and also be acceptable both aesthetically and in policy terms. Archyfield's witness is a very experienced architect who has been involved in large transport projects and design proposals. The alternative proposal which he produced has a concourse area of 1560 square metres and only three pillars in the main part of the concourse (all outwith the overrun risk zone). This is not the only possible alternative that could retain most of the 1970s extension do this. A holistic scheme including the aspirations of Historic Environment Scotland, Glasgow City Council and Archyfield for the greater integration of the hotel with the station could easily be designed.

3.70 The scheme has been costed and structural engineers are comfortable with the proposals. It has the positive benefits of providing added security to the station and allows for a design which would be more appropriate to its context and setting than the Network Rail proposal. MH8 sets out a possible alternative frontage with retail use but that and the different floor levels shown internally can easily be altered along with the façade and roof structure. The visualisations shown in MH8 show possible frontages and compare them with the Network Rail proposals.

3.71 Network Rail considers that the alternative schemes would fail to provide the headroom required by the relevant guidance. This is incorrect. The Station Capacity Assessment Guidance (PD21) sets out that other than the minimum headroom criteria required for safety purposes there is no headroom criteria relating to the passenger assembly space within main line railway stations. The minimum headroom criteria identified in the guidance is 2500 millimetres. The guidance sets out that as a rule of thumb, there should be a minimum headroom of 5 metres over concourses up to 500 square metres. All of the concourse headroom in Archyfield's alternative scheme meets the 5 metres rule of thumb suggestion. The majority of the concourse headroom would be over the rule of thumb additional height of 1 metre for every 500 square metres. The guidance stresses, that architectural judgement will need to be made as to the appropriate height. Archyfield's proposal follows the layout of Network Rail's proposal with regard to seating and positioning of customer information screens.

3.72 Archyfield's witnesses confirmed that the alternative proposals retaining part of the 1970s extension could be fully compliant with the requirements of the relevant guidance and standards on size and height. That evidence was not challenged by Network Rail. Accordingly, lack of compliance with the standards and guidance is not a basis for ruling out consideration of an alternative way of achieving the aims of the proposal and retaining part of the 1970s extension.

3.73 During the inquiry Network Rail suggested that the alternative to retaining the 1970s extension or part of it would cost Network Rail in the region of £250 million. That is nonsense. It assumes that the only alternative is to run more frequent trains, when Archyfield's evidence has shown that there are alternative solutions that would allow the extension of the platforms. Network Rail also argued that the project is time critical because of Network Rail's funding from Transport Scotland. Network Rail's evidence is that the project is funded in Control Period 5 which ends on 31 March 2019. However, Network Rail's witness accepted that the funding of the project outwith that timescale would be dependent on Transport Scotland and the Scottish Ministers. The end of Control Period 5 on 31 March 2019 is not a basis for concluding that this project is time critical.

3.74 Turning to the possible public benefits of the scheme, these must be considered in the context of the availability of alternative ways of achieving such benefits either by the suggested alternatives put forward by Archyfield or by a holistic redevelopment of the station, hotel and surrounding area. There is no indication that Network Rail has taken these matters into account when considering the issue of public benefit and balancing the various relevant factors. Neither is there any indication that Network Rail has fully considered the effects on the hotel and Archyfield. Network Rail seems only to have considered the public benefits of the overall redevelopment of Queen Street Station. What is required to be assessed is the public interest. The CPO Circular sets out that the authority should properly assess the public benefit in its proposals and the impact on the people affected. Network Rail has not assessed matters in this way.

3.75 It is neither the role of the inquiry nor the responsibility of the Scottish Ministers to consider which of the various possible alternatives (for example, a holistic approach or retention of part of the 1970s extension) is the most desirable. The key points are that there are alternatives and that Network Rail has neither been prepared to consider them nor to set out acceptable reasons for not doing so. The failure of Network Rail to consider properly such alternatives, to justify that the acquisition is necessary and to consider

properly the issue of public interest precludes the Scottish Ministers from granting the power to Network Rail to acquire, compulsorily, Archyfield's property rights.

The effect on Archyfield and the hotel

3.76 As the Archyfield evidence has highlighted, there are a number of direct adverse effects on the hotel of the granting of the Order. It will result in:

- the loss of a substantial number of guest rooms and facilities;
- the inevitable loss of a number of jobs at the hotel and uncertainty about the remaining jobs;
- the requirement for Archyfield to alter its business model for the operation of the hotel; and
- the loss of the interconnection of the hotel and the station and the effect on access and service arrangements.

3.77 The loss of 51 guest rooms in the 1970s extension and the loss of guest room space in the Georgian building (4 bedrooms) will represent a very material and significant interference with the operation of the hotel. It would leave the hotel with a significantly reduced bedroom capacity.

3.78 The lack of regard to the impact on the hotel is highlighted by the indifference shown by Network Rail to any alternative proposal put forward by Archyfield in order to retain as many bedrooms as possible. Network Rail would not consider retention of any of the 1970s extension. Network Rail has, to 16 June 2016, refused to take on board the desires of Archyfield, Historic Environment Scotland, and Glasgow City Council to avoid having the windows on the west façade of the Georgian building blocked. Potentially this could affect nine rooms (the 5 affected by the 70s extension and the 4 whose existing windows will be blocked). Network Rail's witness could not put forward a reasoned basis for these nine (potential and current bedroom) windows being blocked up.

3.79 A note by Network Rail on the Millennium Hotel windows has now been produced which attempts to justify Network Rail's position and does offer the possibility of a way forward. Archyfield will respond to this note in due course but it should at this stage be noted that the note does not set out a proper justification for it being necessary to block up windows and prevent windows from being unblocked. The note adds little to the evidence before the inquiry. This is another example of Network Rail not considering obvious alternatives.

3.80 In any event, Archyfield's witness considers that fire separation could be provided between the concourse and hotel by much more discreet methods, utilising fire engineered design solutions, which would enable the hotel façade to be visible within the concourse space (Robert Emery precognition). Accordingly, there is no need for this wall.

3.81 Turning to the overall effects of the loss of bedrooms, the loss of so many rooms will inevitably result in the loss of jobs. The reduction in room capacity will have a significant impact on the facilities and services which can be offered to customers. Employees made redundant would not be able to be absorbed elsewhere in the hotel. Based on the projected fixed costs of the hotel, the losses incurred in operating a 66 room hotel would be considerable, which would inevitably impact on the number of people employed. During the inquiry Archyfield's witness clarified that the final number of remaining rooms would be even

smaller (62) after taking into account the further 4 lost as mentioned above. The hotel currently employs a total of 98 full and part time staff, a full time equivalent of 75 jobs. The reduced size of the hotel would in turn require a different business model from that operated currently. The extent to which that model would be successful or not in this location is not certain.

3.82 Currently there is an interconnection between the hotel and station with the west entrance to the hotel next to the entrance to the station. That interconnection will be lost and in turn the benefits to the hotel and station will be lost.

3.83 The Waste, Delivery and Access Strategy for Business (NR118) does not look at the requirements of the hotel and there is no indication that this has been adequately considered by Network Rail.

The built heritage and relevant policy considerations

3.84 It is clear that the emphasis of Network Rail has been on the compliance of the proposal with transport policy. Network Rail's witness stated that transport policy had to take priority. The TAWS Guidance makes clear that planning policy documents are important relevant considerations.

3.85 Turning to the effects on the built heritage, Network Rail has produced little independent evidence from key stakeholders which is supportive of its proposal. Glasgow City Council has detailed criticisms of the design (NR110). The Glasgow Urban Design Panel Report (MH20) also shows that the panel had a number of concerns. This has to be seen in the context of the Heritage Statement identification that the hotel is of special architectural and historic interest.

3.86 The best way of considering the impact on the built heritage is to have regard to Appendix H to the environmental statement and, the Design and Access Statement (NR16). Looking at the visualisations it is easy to see why Glasgow City Council, Historic Environment Scotland and the Glasgow Urban Design Panel have so many concerns about this proposal fitting into the surrounding built heritage and the effect on the setting of the hotel and other listed buildings.

3.87 It is difficult to see how any regard has been had to the guidance in New Design in Historic Settings (PD88). If one considers the surrounding scale, hierarchy and massing, the proposed structure is of a monumental scale distinctly at odds with its context. The new structure would dominate the locality and actually reduce the views of the A listed fan arched gable from key views. The west elevation of the Georgian part of the Hotel would be blocked by a firewall 2.2 metres away and the existing openings closed. The end result is that the proposed concourse would turn its back on the hotel and there would be no integration between the new structure and the hotel. All of this must be seen in the context of the statutory requirements in relation to listed building and conservation area consents.

The environmental assessment of the proposal

3.88 The environmental statement sets out that it relates to the proposed development to be authorised by the TAWS Order. Thereafter 9 bullet points set out the development that is being assessed in the environmental statement. Paragraphs 2.3.2 to 2.3.4 set out the context for the works. These paragraphs have now to be read with and amended by the

Addendum (chapters 1 and 2). Network Rail's witness accepted that the works authorised by the Order should not extend beyond that which has been assessed. The powers and authority given by the Order must be tied to that which has been assessed.

3.89 An environmental statement must include an outline of the main alternatives studied. The TAWS Guidance, paragraph 3.45, states that applicants should provide compelling reasons for their failure to consider alternatives in the environmental statement. This has not been done. Archyfield considers that the number of alternatives considered by Network Rail has been unduly restricted as the assessment fails to report on the consideration of the alternative redevelopment solutions that would have been implemented in conjunction with the Buchanan Quarter proposal, and which would allow the Millennium Hotel to continue to operate, despite Network Rail's involvement in the development of the Buchanan Quarter proposals.

3.90 On cumulative effects, an initial review of the 350-metre catchment area yielded many proposals and therefore it was necessary to consider only developments with the potential to create significant cumulative effects. Only major developments as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 within the catchment area were considered. However, the fact that a development does not fall within the definition of "major development" does not mean that it could not give rise to significant cumulative effects. Indeed, major developments may be likely to give rise to significant environmental effects by themselves and therefore a lower threshold must necessarily be applied when considering other proposals in combination with those described in the application for the Order. It is therefore entirely conceivable that developments falling slightly short of the definition of "major development" in the Hierarchy Regulations could give rise to significant cumulative effects when assessed alongside the proposals contained in the application for the Order. Moreover, it is quite possible that local developments which on their own do not result in significant effects could together produce a significant cumulative effect. The environmental statement and addendum fail to recognise and consider this.

3.91 Network Rail's witness set out that local developments which intersected the site redline boundary were considered as part of the cumulative assessment due to their increased proximity. This fails to acknowledge that a local development sited immediately adjacent to the Order site redline boundary could result in significant cumulative effects, particularly if the two sets of works are to be undertaken concurrently.

3.92 Archyfield's own development proposals - granted planning permission on 21 April 2015 under reference number 14/02813/DC - are excluded from the cumulative assessment methodology. This analysis ignores the fact that a potential increase in environmental effects may take place as a result of the station and the hotel developments taking place sequentially, for example, due to an increase in the period during which construction works are taking place in the local area, as well as the overall effect once both developments are built.

3.93 The redevelopment of the east side of the station is not stated to be considered as part of the cumulative assessment and no justification is given for its exclusion. In addition, the assessment of the effect of track slab replacement is excluded from the assessment because these sections fall outwith the redline boundary and the works are due to be completed prior to the commencement of the works on the concourse.

3.94 The extension of the station platforms is not expressly assessed in respect of all of the aspects of the environment considered in the environmental statement, for example, the cumulative assessment of the effects of air quality does not include the extension of the station platforms.

3.95 The fact that the works are not planned to take place concurrently does not necessarily preclude the existence of significant cumulative effects. The existence of the one month break referred to between one set of works ending and the other beginning does not take account of the very real possibility of the works becoming delayed. The fact that there is at present no recognised start or finish date or agreed programming for the Order works is a further reason for a robust approach being taken to the consideration of cumulative effects.

3.96 The environmental statement does not appear to include an assessment of the effects of demolition of the 1970s extension on the setting of Georgian Building. Paragraph 6.11.12 describes the residual effects of the development on heritage assets after any proposed mitigation. The environmental statement states that:

"there is no practical way of avoiding them [residual effects] whilst still delivering the proposed development."

Whilst this may be true in the development's current form, Archyfield believes that the aims of the development could have been achieved with a less significant effect on heritage assets. However, alternative development proposals with potentially lesser impacts were not considered.

3.97 The effects of the development on traffic and transport during the operation of the development are not assessed. No explanation is given for this in the environmental statement. It is clear that the proposals will have an impact on the service delivery routes for the hotel once the temporary possession powers are relinquished as the hotel will not be able to continue to use existing service area to the front of the 1970s Extension and may not be able to use the servicing rights to the back either.

3.98 Paragraph 9.5.30 of the environmental statement sets out the methodology to be applied when completing the traffic and transport cumulative assessment. The environmental statement states:

"Although there are other consented developments in the vicinity of the proposed development, the construction and operation of these developments are not anticipated to share similar traffic routes with the worst case demolition/construction aspects associated with the proposed development. It is therefore concluded that there will not be any cumulative environmental effects associated with traffic and transport."

It is clear that the platform extension works would inevitably share similar traffic routes with the concourse works.

3.99 The TAWS guidance identifies the need to describe the measures proposed to be taken to avoid, reduce and if possible, remedy any significant adverse effects on the environment. The guidance goes on to refer to rule 12(c) which sets out that in giving a determination to make a TAWS order Scottish Ministers are required to describe in the

decision notice the main measures to be taken to avoid, reduce and if possible, remedy the major adverse environmental effects. Scottish Ministers need to be sure of what works they would be allowing, the extent to which they are likely to affect the environment, the mitigation measures proposed and how and by whom such measures will be enforced.

3.100 Network Rail has stated that, in order to meet the anxiety that ancillary works ought not to be allowed unchecked, provision could be made that the authorised works (including the ancillary works) permitted by the Order are works which are within the scope of the environmental impact assessment recorded in the environmental statement. Archyfield's position is that only works that have been assessed properly can be allowed under the TAWS process and that any Order should ensure that this is the case. The most appropriate way of doing this would be to define the limits of the works to that which has been assessed. This would allow only works identified to be carried out. The appropriate authority should be provided with the powers to control the works. The timing of the works should be controlled.

3.101 The lack of specification means no one can understand what is being consented or where, nor can anyone properly environmentally assess what is being consented. There is no specification of these works in Schedule 2 of the draft Order, just a list of example items ending with a catch all, making it clear that the intention of the schedule is simply to capture anything and everything. Archyfield questions whether planning permission in principle can be granted for works of an unspecified nature. If the development is not yet known it is not possible to know that its effect will not, either on its own or cumulatively, be significant. In relation to Network Rail's witness' remarks about permitted development rights, it must be remembered that permitted development rights do not exist for projects which require an environmental impact assessment.

3.102 Network Rail has concluded that the most satisfactory way to deal with the accommodation block, the electricity substation and the fire sprinkler tank is to take them out of the scope of the TAWS application and deal with them separately. Archyfield does not consider that this is appropriate where Network Rail's witnesses have identified that these elements are essential for the station, which is why they were included in the TAWS application. If there is no certainty that these essential elements will be delivered (which there cannot be if they do not have consent) then the scheme is not viable.

The draft Order

3.103 During the inquiry the wording of the Order was amended on more than one occasion. Since the close of the inquiry there have been further proposed amendments. The draft Order that Network Rail is now proposing bears little resemblance to that which was advanced by Network Rail at the start of the Inquiry. Many of these amendments were in response to Archyfield's criticism of the Order made in its initial objection and in its statement of case. Archyfield highlighted one of the key changes - the identification of the works in Schedule 1 of the Order - as a key failing of the Order.

3.104 The draft Order has to be seen in the context of the drafting principles set out in the TAWS Guidance. Network Rail's witness explained that the Order should set out the powers and is not a justification for the powers. But the Order must set out the context in which the powers are given in order to understand the limits of the powers. The powers must be limited to what has been assessed in the environmental statement and addendum so it is essential that the Order ties the powers to the works that have been assessed. The

failure of Network Rail to do this until after the start of the Inquiry highlights the concerns Archyfield has in relation to both Network Rail's actions and its grasp of the legal restraints within which it is required to work. The terms of the final draft Order remain unjustifiably wide and Archyfield makes a number of detailed criticisms of the drafting.

3.105 The deemed planning permission sought under Rule 8(6) has been amended a number of times. These efforts highlight the flaws. Network Rail is seeking wide authorisation which has not been adequately defined and properly assessed. This is a particularly acute problem for Archyfield because the deemed planning permission in principle will apply not only to the car park at the rear of the hotel but to operational areas of the hotel itself, in Plots 2A, 2B and 2C. It is not clear what permission is being granted for over those areas. Network Rail should not be granted the deemed planning permission sought. The arguments advanced in favour of granting deemed planning permission in principle for ancillary works remain at best confused and do not form a rational basis for what is sought.

A lost opportunity

3.106 A consistent theme of the statutory consultees to this project is the recognition that this proposal represents a lost opportunity. This is a proposal which will affect the civic centre of Glasgow until the middle of this century and beyond. Both LS Buchanan and Archyfield have come forward with proposals which are supported by Glasgow City Council and Historic Environment Scotland for the holistic redevelopment of the area around Queen Street Station. At the inquiry Network Rail's witness accepted that Network Rail was not prepared to move forward with a holistic approach because the value of the 1970s extension had to be agreed first. That attitude should not be rewarded. It highlights an arrogance on behalf of Network Rail and a failure by it to recognise the policy and legal framework within which it is required to work.

Conditions and controls

3.107 Should the Scottish Ministers decide to grant the Order (or grant it in an amended form) and grant deemed planning permission and listed building and conservation area consent, Archyfield considers that it is essential that the works are properly controlled, carried out according to an agreed timetable and suitably mitigated, all in accordance with what has been assessed in the environmental statement and addendum.

3.108 These controls should be in the Order and also set out in conditions in order that the planning authority can discharge and enforce them according to its established practice. Archyfield considers that there should be a specific condition that requires the provisions of the Code of Construction Practice to be consulted upon and then approved by the planning authority and for the project to be carried out in accordance with the code. The specific conditions sought by the council should also be imposed.

Legal Framework

TAWS legislation

3.109 Scottish Ministers' powers in relation to TAWS orders are set out in Section 11 of the 2007 Act. Scottish Ministers have the power to refuse the order or to make modifications to the Order. The TAWS guidance advises that it would not be appropriate to make changes

that were so substantial that the Scottish Ministers would in effect be approving a fundamentally different proposal from the one for which an application has been made. In these circumstances the guidance advises the application should be turned down.

3.110 The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 set out the procedures that need to be followed in relation to the Order. Accordingly, whilst the legislative framework sets out the powers available to the Scottish Ministers and certain matters that they must consider and decide on, it does not set out any presumption in favour of transport policy. Clearly the policy advice from the Scottish Government recognises that development plan policies and other planning policies are important considerations that will be taken into account when the Scottish Ministers consider the Order.

The development plan and the interpretation of policy documents

3.111 The Tesco Stores Ltd -v- Dundee City Council (2012) UKSC13 case clarifies the law on interpretation of policy and highlights the reasons why the development plan is such an important document. Accordingly, considerable weight should be given to the development plan when considering Network Rail's proposal and policies (whether they be transport, rail, planning or compulsory purchase) should be read in context and interpreted objectively in accordance with the language used.

Compulsory purchase

3.112 In relation to the compulsory acquisition of property rights the courts have concluded that:

- it is for the acquiring authority to justify its compulsory acquisition. It must prove that it is necessary. It must do this by presenting its evidence to the Scottish Ministers;
- the acquiring authority must consider alternatives properly;
- there requires to be a compelling case in the public interest to justify the acquisition of such rights;
- the basis for the acquiring authority's compulsory acquisition should be most carefully scrutinised.

3.113 Archyild's counsel referred to a number of legal cases in support of its case as follows:

- R -v- Secretary of State for the Environment, ex p. Melton Borough Council [1986] 52 P&CR 318
- Sharky -v- Secretary of State [1991] 63 P&CR 332
- R -v- Secretary of State for the Environment ex p Leicester City Council [1988] 55 P&CR
- Standard Commercial Property Securities (2001) SC 177 (page 200, paragraph 42).
- Brown -v- Secretary of State [1980] P&CR 285 at pages 291 and 292.
- Hall -v- The First Secretary of State [2007] EWCA Civ 612.

Listed buildings and conservation area legislation

3.114 In considering whether to confirm the Order and whether to grant listed building consent Scottish Ministers must have special regard to the desirability of preserving the

listed buildings and their setting and any features of special architectural or historic interest which they possess. In relation to conservation areas special attention is required to be paid to the desirability of preserving or enhancing the character and appearance of the area. Reference is made to *South Lakeland District Council -v- Secretary of State for the Environment* [1992] 2 AC 141.

Environmental effects

3.115 The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 set out the requirements in relation to the provision of environmental information. That information must identify the potential environmental impacts of the proposals and assess the significance of the environmental effects. Reference is made to Rule 9 and Schedule 1 of the Application Rules. Schedule 1 requires the environmental statement to include a description of the proposed project, an outline of the main alternatives studied and a description of the measures envisaged to prevent, reduce and, where possible, remedy any significant adverse effects on the environment.

3.116 In relation to the assessment of the environmental effects *Berkeley -v- Secretary of State for the Environment & Others* [2001] AC 603 is relevant. *R (on the application of BurrIDGE) -v- Breckland District Council* [2013] EWCA Civ 228 states that obligations under the directive and regulations cannot be circumvented by the splitting of projects or the failure to take into account the cumulative effect of several projects and also that the obligations cannot be defeated by piecemeal development proposals.

3.117 Reference is also made to *R (Brown) -v- Carlisle City Council* 2010 EWCA Civ 523. That case warned against deferring environmental impact assessment in respect of the potential cumulative effects of a development until after permission had substantially been granted since there is a danger that the developer will have obtained a “foot in the door”. Even if the later assessment of the cumulative effects might otherwise lead to a conclusion that those effects were unacceptable, the local planning authority would be committed to the development for which permission had been obtained, and that commitment would be a relevant factor in deciding whether cumulative environmental effects which might have been regarded as unacceptable if they had been considered at the outset, must be accepted at the later stage given the prior commitment.

3.118 In *Hardy & Maile v The United Kingdom* [2012] ECHR 261 (14 February 2012) where the European Court of Human Rights held that a government decision making process concerning complex issues of environmental and economic policy must in the first place involve appropriate investigations and studies so that the effects of activities that might damage the environment and infringe individuals’ rights may be predicted and evaluated in advance and a fair balance may accordingly be struck between the various conflicting interests at stake.

3.119 The assessments of the environmental impact of the proposal carried out by Network Rail do not comply with the above framework. A proper assessment was not carried out at an early stage of the process and this has resulted in consultees not being provided with sufficient information and assessment of the potential environmental effects. The environmental statement (NR 22) is inadequate. Network Rail has been required to produce an addendum and other additional evidence and assessment during the inquiry in order to attempt to make up for its inadequacies. Further, the assessment of cumulative

effects is an essential element of the assessment of potential environmental effects. Projects cannot be manipulated to avoid appropriate assessment.

3.120 Scottish Ministers cannot grant powers and allow consent for a proposal which has not been fully assessed. This is a fundamental problem for Network Rail. It is seeking deemed planning permission in principle for ancillary works which have not been assessed. What is sought goes beyond any permitted development rights Network Rail has because it gives it the power to carry out development even when an environmental impact assessment is required.

3.121 Neither condition 3 nor Article 38A are Directive-compliant. There is no provision for consultation. Network Rail is attempting to use the deemed planning permission in principle for development that is not covered by condition 1 of the deemed planning permission in principle. This is incompetent because it goes beyond what Parliament provided in respect of deemed planning permissions in principle. Section 59(1) (b) of the Town and Country Planning (Scotland) Act 1997 provides that planning permission in principle must be subject to a condition that the development in question will not be commenced until certain matters have been approved by the relevant authority.

Comments on clarification provided by Network Rail after the inquiry closed

3.122 Network Rail claims that the 1855 Act authorises works in relation to which section 16 of the 1845 Act enables the substation, sprinkler tank and accommodation building without limit of time. But the 1855 Act only authorises acquisition and use of land. It is not clear how the wording of section 16 successfully connects the three elements works to the authorisation given by the 1855 Act. Network Rail also mentions the 1877 Act, but offers no explanation of how the three elements are related to the works authorised by that Act.

3.123 It is self-contradictory to say that works that are essential to the delivery of the TAWS works are actually a separate project as far as environmental assessment is concerned. The case law on splitting of projects is designed to avoid that situation. Network Rail included the three elements in the applications but omitted to consider them in the environmental statement or the addendum. They then sought to address the legal compliance problem that this presented by taking them out of the applications. Their obligation remains to assess the effects of the three elements as part of the project or as part of cumulative assessment. They have failed to do either adequately. This is a fundamental problem for the applications.

3.124 Case law establishes that authorisation of a project by legislation does not remove the need for environmental assessment. That legislative process must also achieve the objectives of the environmental impact assessment Directive. Applying the 1845, 1855 and/or 1877 Acts does not meet that requirement. Even if the three elements do not have to be assessed as part of the project they have to be assessed as part of cumulative assessment. The most recent information submitted by Network Rail in an attempt to remedy this shortcoming is inadequate.

Conclusion

3.125 Archyfield considers that Network Rail has not come close to justifying the compulsory acquisition of Archyfield's property rights in Plot 1. Network Rail has advanced a poorly designed proposal which will result in unjustifiable adverse impacts on the

surrounding area. The Order should not be confirmed and the consents sought refused. Alternatively, if the Order is confirmed and the consents are granted, the Order should not give Network Rail the power for the compulsory acquisition of Archyfield's property rights.

CHAPTER 4: THE CASE FOR OTHER OBJECTORS

Clydesdale Bank⁵⁵

4.1 The bank is the holder of a standard security over the property at 32 to 58 Dundas Street, Glasgow which is owned by the Trustees for the Firm of Purewal Properties. The bank does not currently have sufficient information on the rights sought and required by Network Rail, and any suitable protection that will be in place for the property, to allow the bank to assess the impact on its interests. It therefore objects to the application and the acquisition of rights over the property, but would suggest that Network Rail enters into discussions with the borrower for the voluntary acquisition of rights which provides suitable mitigation and protection.

4.2 The bank has been identified as being the holder of various charges in relation to properties which benefit from a private right of way over Citizen Lane. Article 12(2) of the Order would suspend, and render unenforceable, all private rights of way over Citizen Lane for as long as Anchor Lane is temporarily stopped up under Article 10 of the Order. It should also be noted that Anchor Lane and Citizen Lane are also important to the operation of the bank's headquarters, situated on St Vincent Street/Place and Buchanan Street. The Traffic Management Plan which accompanies the Application suggests that Anchor Lane, and consequently Citizen Lane, would be closed for a period of 1 month during demolition of Consort House on West George Street and for two 48 hour periods during the construction phase of the project. The bank also notes that there would be temporary closure of a section of West George Street between Dundas Street and Queen Street / George Square during demolition of Consort House and two lanes on West George Street for a period of 23 months during the construction phase of the Project.

4.3 The Citizen Lane / Anchor Lane area is an important operational area for the bank. It is used for parking, deliveries and as a fire exit. The bank would require advance notice of closures to be able to schedule deliveries of oil and to manage its emergency planning for fire incidents, make alternative provision and keep staff informed. Any closures which would last longer than a month would have a significant impact on the bank and would be likely to restrict its ability to schedule oil deliveries to accommodate such road closures. It is noted that there is a proposal to provide spaces for waiting and loading / unloading on St Vincent Place between points TR3 and TR4 on the Order maps, which can be used by service vehicles. However, these spaces could not be used for the oil deliveries and are not likely to be suitable for alternative servicing for other purposes, as the bank's alternative servicing access would be on Buchanan Street.

4.4 The bank also operates two automated teller machines on West George Street, opposite the station. These need to be serviced from West George Street. It is not yet clear what impacts the road closures would have. The bank needs to complete a detailed assessment with the contractor responsible for servicing the automated teller machines. However, it is likely that it would not be possible to operate them during the periods that West George Street is fully closed and the ability to operate them may be compromised when West George Street was reduced to two lanes, particularly as it appears the taxi rank would remain in place during these periods.

⁵⁵ [Clydesdale Bank, Statement of Case](#)

4.5 There is currently insufficient information on the phasing and timing of the closures mentioned above, and any mitigation that might be provided by Network Rail, to allow the bank to fully appraise the impacts of these road closures. In the absence of this information, the bank objects to the application but would invite Network Rail to enter into discussions to avoid and/or mitigate impacts.

4.6 The bank is conscious of the potential for the demolition and construction taking place in close proximity to its headquarters to have a significant impact on the amenity of its staff. The bank would welcome the opportunity to discuss what mitigation would be provided by Network Rail so that the impact on the bank's staff was suitably minimised.

4.7 Following the submission of the objection by the bank, discussions were held between them and Network Rail. Although the representatives of Clydesdale Bank PLC have stated that agreement has been reached, the objection has yet to be withdrawn. This objector did not give evidence at the inquiry.

Paul Pagliari⁵⁶⁵⁷⁵⁸

4.8 Mr Pagliari lives in Ingram Street and has a parking space accessed from Cochrane Street. He advises that he did not receive notice of the public inquiry. He considers Glasgow City Council should have notified local residents.

4.9 Mr Pagliari states that the inquiry should fully examine the issue of access to the city centre from the west. He points out that residents, unlike visitors to the city centre, cannot choose their parking/route but must return to a specific location. There is now an impenetrable forest of bus gates which unreasonably deny access to city centre residents. the proposal to stop off access by residents by the last remaining route seriously and adversely affects residents' access to their property by requiring a long detour when approaching their designated parking from the west. This directly adversely affects residents' home and family lives. At certain times of day and during events residents can experience long and unnecessary delays.

4.10 The last remaining local access route which does not require a long and unreliable detour when approaching from the west of the city is via West George Street, and the bus gate at Nelson Mandela Square, where access is permitted currently between 7 pm and 7 am. This access route is planned to be stopped off as part of the Network Rail redevelopment proposals. This would cause disproportionate harm to his home and family life if not mitigated by the opening of an alternative local access route.

4.11 When Glasgow City Council originally limited access to the Nelson Mandela Square bus gate this decision was highly controversial and objected to by many residents. The council acknowledged that there was a disproportionate effect on journey times and agreed that accommodation would be made for city centre residents. However, only 7 pm to 7 am access was conceded

Purewal properties⁵⁹

⁵⁶ [Email dated 2 May](#)

⁵⁷ [Email dated 4 May](#)

⁵⁸ [Email dated 6 May](#)

⁵⁹ [Purewal Properties, Statement of Case](#)

4.12 The closure of Dundas Street for 26 months would have a negative impact on the viability and vitality of existing businesses on Dundas Street. Network Rail has given assurances that any adverse impacts would be minimised. Purewal has requested further details.

4.13 The construction and demolition work would affect the amenity of the area and would affect the structure of the properties. Network Rail state that precise details of the works to the premises would not be available until a later stage of the project. Purewal is also concerned that some windows on 32 Dundas Street would be blocked up as part of the works.

4.14 Purewal Properties consider that further information is required about the impact on servicing to the properties in Dundas Street. The construction compounds on Dundas Street, albeit in the lower part of the street, would have a negative impact on amenity. Purewal Properties questions whether the applicant has looked at alternative locations for the proposed construction compounds to minimise the impact on Dundas Street.

4.15 There would be temporary effects from construction activities, including noise and impacts on air quality. The works and surrounding road closure would cause traffic congestion. Purewal requests that it is informed about the development of the Traffic Management Plan.

4.16 There may be title implications (encroachment of title and blocking out of windows). This may involve compensation under the 1973 Act. Purewal will seek to be indemnified from any additional cost implications arising out of the need to engage professional consultants with this and the works. Purewal Properties continues to object to this application.

CHAPTER 5: SUGGESTED CONDITIONS

5.1 The application did not include a detailed list of conditions, but rather a number of principles for conditions. The basis for discussion of conditions at the inquiry on 25 May 2016 was a list of suggested conditions for deemed planning permission in principle, deemed detailed planning permission, conservation area consent and listed building consent submitted as an annex to Network Rail's planning witness's precognition⁶⁰.

5.2 At the inquiry, Network Rail made a substantial change in the conditions proposed in its request for deemed planning permission in principle, to reflect its withdrawal of a specific request for such permission in respect of three buildings on plot 26. Although for the most part the form of the conditions of detailed planning permission, conservation area consent and listed building consent were agreed, there have remained a number of elements of significant disagreement, despite discussion between parties following the inquiry. Network Rail provided a significantly revised list of conditions on 24 June 2016 attached to its closing submissions⁶¹.

5.3 There were several outstanding matters relating specifically to conditions that parties commented further on in writing after the discussion at the hearing session⁶². This chapter summarises parties' comments on Network Rail's draft conditions.

Detailed planning permission

Draft condition 12 – requirement to provide a scheme for public realm works

5.4 At the hearing, Mrs Heberton for Network Rail explained that this reflected an agreement between Network Rail and the council that the scheme for public realm works was only to be provided to ensure materials used were the same as those used for other public realm improvements in the wider area; others would be responsible for carrying out the works. Where the road or pavement surface is disturbed by works authorised in the Order, Network Rail would reinstate to match the existing.

Draft condition 13 – traffic management plan

5.5 Article 9 of the order would disapply sections 56 to 61A and 85 of the Roads (Scotland) Act 1984 and thereby remove: the requirement to obtain consent to carry out works on a road, to place apparatus under a road and to place a builder's skip on the road; the road authority's power to remove dangerous works; the prohibition on occupation of the road for depositing materials during development without the road authority's consent; and requirements for fencing and lighting of obstructions. We asked whether any provision ought to be made in respect of these matters in conditions. Network Rail responded that any requirement to obtain consent in respect of these matters might hamper or prevent the development's implementation and that it follows that imposition of other control in respect

⁶⁰ [Sandra Heberton precognition](#)

⁶¹ [Network Rail draft conditions 24 June 2016 \(attached to closing submissions\)](#)

⁶² See [Network Rail commentary on planning conditions](#); [Network Rail note on Millennium Hotel windows](#); [Archyfield submissions on proposed conditions relating to requested deemed permissions and consents](#); [the response by Network Rail to Archyfield's submissions](#); Mr Ken Clark's [email dated 13 June 2016 on behalf of Glasgow City Council](#); [submissions of Douglas Armstrong QC for Archyfield](#) and [Malcolm Thomson QC for Network Rail](#)

of these matters in the traffic management plan would not be appropriate⁶³. In this regard, Network Rail referred to circular 4/1998 on conditions, which advises against duplicating non-planning controls in planning conditions.

Draft condition 15 – design of the western façade of the Millennium Hotel

5.6 Network Rail's present proposal for the Georgian building's western façade is that the existing windows should be infilled⁶⁴, and the openings into the demolished extension should be reinstated with new blank windows to match. However, Network Rail states it is considering an alternative solution put forward by Archyfield that would not involve infilling the windows⁶⁵. Its view is that the alternative should be kept open although further work is required to develop it. It has therefore proposed a condition that permits, but does not require, the submission for the council's approval of an alternative design and fire strategy.

5.7 As regards Archyfield's proposal that submission of an alternative design should be required, Network Rail states it cannot agree to a condition that might impact on its ability to deliver appropriate fire safety and security (including terrorism prevention measures) for the station. Until it is known that an alternative solution to infilling the windows is viable, Network Rail regards Archyfield's proposed condition as premature. Although Network Rail's proposed condition requires submission of the fire strategy for information, it would not be appropriate for a planning authority to approve a fire strategy.

5.8 At the hearing, the council's evidence was that its policy required the retention of original windows in listed buildings. The council, therefore, proposes replacing condition 15 with two conditions that would require submission of a detailed fire strategy for approval and of the final design for the interface between the station and the west elevation of the Georgian building. The council considers this is necessary to afford the required protection to the building.

5.9 Archyfield also objects to the proposed condition 15 on the basis that submission of an alternative design for the western façade should be a requirement, not an option. The blocking of the windows would affect nine rooms in the hotel. It alleges that Network Rail has not properly considered alternatives and that its justification is not a basis for interference with Archyfield's property rights. Fire separation could in any case have been dealt with by more discreet methods using fire engineering solutions. Archyfield supports the council's proposed conditions. Furthermore, drawings or other images of the proposed development should not be approved if they show a design that could cut across a condition requiring the council's approval of a final design for the western façade.

Draft condition 30 – the Code of Construction Practice

5.10 Network Rail states the imposition of a condition requiring adherence to a Code of Construction Practice to be normal practice for Network Rail's major schemes (for example, the Airdrie-Bathgate and Waverley projects and the Ordsall Chord project in England). It argues there is considerable overlap between the scope of the Code of Construction Practice and planning matters, but specific conditions proposed by the council are not an adequate substitute for all of the provisions of the Code of Construction Practice. The requirement in the code for appointment of an environmental clerk of works would provide a

⁶³ [Network Rail commentary on planning conditions](#)

⁶⁴ See paragraph 2.163 of this report

⁶⁵ [Network Rail commentary on planning conditions](#); [Network Rail note on Millennium Hotel windows](#)

monitoring and liaison resource for the council, and would go some way to addressing any concerns the council might have in respect of the resources involved in monitoring compliance with the Code of Construction Practice. There was some discussion at the hearing of making adherence to the code a requirement of the Order rather than of a planning condition. However, Network Rail does not support such an approach since it considers that residents and businesses around the station would be comforted by the council having planning enforcement powers⁶⁶.

5.11 At the hearing, the council opposed a condition requiring compliance with the Code of Construction Practice on the basis that it was a long and complex document containing various matters, some of which were relevant to planning and some not. It also included various requirements, some of which were appropriate for a planning authority to enforce and some not. It was not clear what the appropriate wording should be for such a condition, how matters still to be resolved would be submitted or approved, or how monitoring and enforcement would be carried out.

5.12 The council has since provided a written response to Network Rail's proposed conditions, including a topic-by-topic examination of the Code of Construction Practice⁶⁷. The response states in summary:

- site access, the provision of a traffic management plan, waste management and recycling, protection of surface and groundwater resources and contaminated land are already dealt with satisfactorily in other conditions or in the order itself;
- pollution incident control is a matter to be dealt with by the emergency services, the Scottish Environment Protection Agency, or the Health and Safety Executive, and falls outside the scope of planning control;
- heritage (or at least the impact on adjacent historic buildings) is dealt with by the conditions of the listed building consent and conservation area consent;
- it is uncertain what ecological resources would require protection in an urban centre (which might be taken as implying, in the absence of evidence of such resources, specific protection in conditions for ecology is not required);
- a list of health, safety and environmental legislation is unnecessary and irrelevant to planning; and
- an enforceable framework for working hours cannot effectively be defined.

5.13 Archyfield considers that there should be a specific condition requiring adherence to a Code of Construction Practice. It refers to the requirement to ensure environmental effects are mitigated in accordance with what was assessed in the environmental statement and addendum (since the code is relied upon in the environmental statement and addendum as providing mitigation measures). However, Archyfield proposes revisions to draft condition 30 so that it requires mitigation measures provided in it to reflect those set out in the environmental statement and requires the Code of Construction Practice to be submitted by Network Rail to the council for consultation and subsequent approval. As an alternative, it suggests the code might be submitted to Scottish Ministers for certification.

5.14 Network Rail opposes as unnecessary Archyfield's proposed amendment to cross-refer to the environmental statement. It does not consider certification of the Code of Construction Practice by Scottish Ministers is a workable approach: the development of the

⁶⁶ [Network Rail commentary on planning conditions](#)

⁶⁷ Mr Ken Clark's [email dated 13 June 2016 on behalf of Glasgow City Council](#)

code is an evolving process, and certification would restrict its development and hamper its effectiveness in securing mitigation. Network Rail also considers the option of requiring the council's approval to be unnecessary since sufficient provision is made in the code for consultation. Network Rail has already given a separate commitment to Archyfield on consultation in respect of the works to separate the Millennium Hotel's extension from the Georgian building outwith the consents process⁶⁸.

Draft condition 31 – securing mitigation measures such that impacts are no worse than those assessed:

5.15 Network Rail claims that providing by condition that impacts of a proposed development should be no worse than those assessed in the environmental impact assessment is a normal method of securing mitigation associated with implementation of a planning permission. Furthermore, it is appropriate in this case because the environmental statement and its addendum identify mitigation measures for each topic, and specific requirements can therefore be identified and enforcement taken in the case of non-compliance.

5.16 Archyfield sought clarification of the draft condition such that it applied to the impacts of construction and operation of the approved scheme. Network Rail does not consider this proposed amendment to be necessary since the scope of mitigation measures is determined by the scope and considerations of the assessment.

Suggested additional conditions

5.17 Although the council opposes a general condition requiring compliance with the Code of Construction Practice, it considers that public access, noise and vibration, air quality, and a requirement for an archaeological survey (matters covered by the code) ought to be conditioned. There is no other specific condition in Network Rail's proposed list (other than that relating to the code) dealing with these matters. The council has therefore proposed its standard conditions on these topics should be applied. In respect of noise and vibration and air quality, the council's proposed conditions would require baseline surveys and assessments to be carried out, and mitigation measures identified and agreed accordingly. The council also proposes a condition requiring the submission for approval of a pedestrian circulation strategy for approval and its subsequent implementation.

5.18 Archyfield agrees that the specific conditions proposed by the council should be imposed as well as a condition requiring compliance with the Code of Construction Practice. It suggests that there should be a proviso that if there is a conflict between the requirements of the council's proposed conditions and the code, the requirements of the council's proposed specific conditions should prevail.

5.19 Archyfield makes a number of other proposals for draft conditions in respect of construction practice, including an amendment to the council's noise and vibration condition to specify the Millennium Hotel as noise sensitive premises and to identify specific means of mitigation; a new condition requiring a site waste management plan for demolition and construction (since the condition proposed applies only to the operational station); and a new condition requiring the provision, three months in advance of the development's commencement, of the construction programme and similar advance notice of any

⁶⁸ [response by Network Rail to Archyfield's submissions](#)

amendments to it. Archyfield says it is crucial to the successful running of the hotel's business that it is able to plan around the works. A condition requiring notice of the construction programme would allow it to do so.

5.20 Network Rail points out that the purpose of council's proposed additional conditions is to give effect to the Code of Construction Practice. There should not, therefore, be any conflict between the two approaches. Archyfield's suggestion that the specific conditions should take precedence over the code is at odds with its stated support for the use of such a code. Although Archyfield proposes an amended wording for the council's condition on noise and vibration and an additional condition on waste management, these topics are provided for in similar terms in the code. The condition requiring compliance with the Code of Construction Practice, therefore, makes the more specific conditions unnecessary.

5.21 Network Rail considers Archyfield's proposed condition for advance notice of the construction programme and any amendments to it to be excessive and impractical. The provisions of the Code of Construction Practice deal adequately with the matter. For example there is a requirement for notification in relation to noise and vibration impacts (paragraph 5.4 of the code). Archyfield has the benefit of separate commitments from Network Rail regarding programming of the works with which they are directly concerned (i.e. the works to separate the 1970s extension from the Georgian building and to mitigate the impact of the authorised works on the hotel).

The content of the Code of Construction Practice

5.22 Archyfield sought a number of revisions to the Code of Construction Practice itself. These included the following:

- paragraph 2.3.1: It should be clarified that a requirement to comply with the code includes a requirement to comply with the environmental management plan and topical environmental management plans made in accordance with it;
- paragraph 3.4.3: There should be a mechanism for council approval of work outwith core hours. Consultation with affected parties and two weeks' notice should be required for such work. It should be made clear what works are permitted outwith core hours. Network Rail assessed light demolition as occurring outwith core hours in the environmental statement addendum. It has provided its definition of what "light demolition" is in its letter of 17 June 2016. Demolition in the evening and night should therefore be restricted to light demolition, as defined, in order that the works remain within the scope of the environmental impact assessment;
- chapter 5: Noise limits should be clearly identified. The high limits set in table 3 should not be applied, but rather lower limits in line with those imposed under section 61 of the Control of Pollution Act 1974 should be imposed;
- chapter 6: The qualification that dust and air quality monitoring measures are to be adopted only "where reasonably practicable" should not be applied.

5.23 Network Rail responded:

- 2.3.1: The environmental management plan and topical environmental management plans are component parts of the Code of Construction Practice. The proposed

condition does not distinguish between different parts of the code for the purpose of compliance, and so the environmental management plan and topical environmental management plans must be complied with.

- 3.4.3: It would not be normal practice for the council formally to approve a requirement to work in a railway environment at night. Elements of railway maintenance and enhancement works often take place at night due to the requirement for railway possessions.

The Code of Construction Practice includes safeguards for those potentially affected by works carried out outwith the core hours. Network Rail's Project Manager will only agree to out of hours working following an assessment of the impact on the local community so as to safeguard the position regarding mitigation measures and to confirm that such working is entirely necessary and cannot be carried out within normal hours. If those tests are passed, notice must then be given to affected parties.

The proposal that the Code of Construction Practice should limit out-of-hours demolition to light demolition would be unduly restrictive and is not necessary in order to limit environmental impact. By condition 31, Network Rail would be obliged not to carry out works that produce worse impacts than those assessed in the environmental statement.

A requirement is included in the Code of Construction Practice paragraph 5.4.2 to give two weeks' notice for planned noisy works at night if it is reasonably practicable to do so. A wider notice requirement for all out-of-hours work is not practicable.

- chapter 5: The primary method for reducing noise would be through best practical measures. Archyild is correct that an amendment to the Code of Construction Practice is required to clarify that limits are set in table 3. These are commensurate with the noise levels adopted in other recent codes. The approach is standard, although marginally differing limits and shoulder periods either side of core-hours are applied in other projects.
- chapter 6: "Reasonably practicable" is the standard usually adopted in codes of construction practice.

Notices of initiation and completion

5.24 We had raised the question of whether conditions should be imposed to require service of notices of initiation and completion upon the council and for the display of a site notice, and also in respect of the duration of the permission, so that the deemed planning permission reflected the statutory provisions applied to ordinary planning permission. Network Rail has responded that, in accordance with section 57 of the Town and Country Planning (Scotland) Act 1997, the provisions of that Act apply to deemed planning permission as they would to other planning permission granted by Ministers. Therefore, the statutory requirements in sections 27A to 27C (requiring notification of the planning authority of commencement of development and of completion of development and requiring display of a site notice while development is carried out) apply to the permission without any further condition being added.

Deemed planning permission in principle

5.25 Neither Archyfield nor the council had any specific comments in respect of Network Rail's draft conditions of deemed planning permission in principle. In summary, Network Rail set out the purposes of the conditions as follows⁶⁹:

- Draft condition 1 defines the scope of works for which approval of matters specified in conditions in planning permission in principle would be required, and the considerations to be taken into account.
- Draft condition 2 provides that the development is to be commenced within 10 years, rather than the default period provided in statute. This has been accepted as appropriate for the construction of railway infrastructure and is consistent with the duration of powers to carry out works provided in recent cases where works have been approved by the private bill process in the Scottish Parliament.
- Draft condition 3 provides that the opinion of the planning authority is to be sought before consent is applied for under condition 1 as to whether the works proposed in the application would give rise to significant environmental effects beyond the scope of the relevant environmental statement under the order. If so, the application for consent is to be accompanied by an environmental statement. This ensures that environmental impacts of ancillary works are, where necessary, given the same degree of scrutiny as the main works defined in schedule 1 of the order.

Conservation area consent

5.26 No parties had any additional comment to make on Network Rail's draft conditions for conservation area consent.

Listed building consent

5.27 Condition 7 – finish of the Georgian building's western façade. Archyfield proposed an obligation on the planning authority to consult with the owner of the Millennium Hotel before determining whether the west elevation ought to be painted. Network Rail agrees, subject to a slight change of wording.

5.28 Condition 11 – design of the western façade. Network Rail's proposed condition 11 is in the same terms as proposed condition 15 of the deemed planning permission (permitting the submission of an alternative façade design and fire strategy). The council and Archyfield also take the same position on condition 11 as they did on condition 15. The council proposes the same two conditions as it proposed in respect of the deemed detailed planning permission, and also a third requiring the existing original windows to be retained and repaired as necessary and that new windows match the originals.

5.29 Our conclusions and recommendations on the conditions are contained in Chapter 6. The conditions that we suggest should be attached are found in Appendix 2.

⁶⁹ Annex 2 to [Network Rail commentary on planning conditions](#)

CHAPTER 6: REPORTERS' CONCLUSIONS AND RECOMMENDATIONS

The objections to the Order

Archyfield

6.1 Archyfield has four main criticisms of the proposed development and the draft Order, which we consider below.

The consultation process

6.2 Archyfield is critical of the consultation process carried out by Network Rail. The Technical Guide to the Transport and Works (Scotland) Act 2007 (PD-26)⁷⁰ advises that “the carrying out of wide and thorough consultations in advance of an application is a crucial part of the whole authorisation process”. The Guide explains that consultation can take many forms, such as informal discussions with officers and local residents, more formal written consultations, public exhibitions and meetings, information leaflets and websites. The Guide makes clear that the consultation does not lend itself to a rigid regulatory approach and that the type of consultation to be undertaken and who should be consulted will depend to a large extent on the size and nature of the project.

6.3 The formal consultation carried out by Network Rail is described in the Report Summarising Consultation Undertaken (NR-7)⁷¹. Consultation took place in two phases: 24 February to 31 May 2014 and 25 June to 24 December 2014. Activities included information leaflets and posters (station distributions and around wider communities); station billboards; press releases; newspaper adverts; a mobile advertising trailer; a radio campaign; a dedicated project web page; social media (Twitter); dedicated E-mail; and a telephone helpline. In addition, briefings with statutory consultees, communities, stakeholder groups, interested parties and elected representatives were carried out throughout the consultation period. We note, in particular, that three people from Archyfield, two of whom gave evidence at the inquiry, were invited to the consultation launch event on 25 February 2014; the consultation letter was sent to the Archyfield Company Secretary; and the public exhibition was held in the Millennium Hotel on 22 and 23 April 2014.

6.4 We also note that Network Rail met with Archyfield a number of times during project development as detailed in the precognition of Alastair Camelford⁷², one of Network Rail's witnesses. This includes a meeting between Network Rail and Archyfield on 21 November 2012 when a number of different options for redevelopment were presented, including a scheme which involved retention of the modern hotel extension and another where the entire hotel would be redeveloped⁷³. Another meeting was held on 29 August 2013⁷⁴. It is apparent that, in 2013, acquisition and demolition of the modern hotel extension and its replacement with an extension to the rear of the hotel were actively being investigated by Network Rail and Archyfield.

⁷⁰ [PD-26](#)

⁷¹ [NR-7](#)

⁷² [Alastair Camelford, precognition](#)

⁷³ [NR-158](#)

⁷⁴ [NR-128](#)

6.5 Archyfield points out that concerns about the lack of detailed information were expressed by Historic Environment Scotland in October 2015 in response to the environmental statement. However, in February 2016, having reviewed the additional information provided as part of the inquiry, the organisation confirmed it was satisfied it had been provided with an adequate level of information to advise on the impacts of the proposals⁷⁵ and that it has no objection to the proposed development. In October 2015 Glasgow City Council also objected to the TAWS application on the grounds that it lacked sufficient detail. However, subsequent discussions between Network Rail and the council led to the objection being withdrawn in April 2016 before the inquiry took place. We consider that this process is not unusual for large scale development proposals, where dialogue with key consultees and stakeholders often involves numerous discussions before issues are resolved.

6.6 Archyfield criticised the change in the boundary of the Order after the consultation period to include the land comprising the taxi rank and car park to the north of the hotel. The change was made before the application was made to Scottish Ministers. We understand that it occurred because of the unexpected change in the Buchanan Galleries proposals at a late stage. Everyone who was consulted on the proposed development initially was sent a letter informing them of the change and advising them they could make comments on it. Accordingly, we do not consider that the late change to the Order boundaries has prevented any party from making their views known.

6.7 In the light of the circumstances described above, we do not agree with Archyfield's assertions that there has been a lack of engagement and that Network Rail has not complied with Scottish Government policy in relation to the consultation undertaken. We conclude that the consultation process described in Network Rail's report was indeed wide and thorough, as advocated in the Guide.

6.8 Furthermore, as well as the consultation process outlined above, once the Order itself was submitted it was advertised in the Edinburgh Gazette and a local newspaper, a notice was posted on site and copies of the application were served on the parties as required in the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007. These include owners and occupiers of land which would be compulsorily acquired to facilitate the proposed development. Objections could be (and were) made at this stage. In response to the objections, Transport Scotland decided to hold an inquiry. The inquiry process is another opportunity for those who have objected to the proposed development to have their objections heard. Archyfield made a full contribution to the inquiry. Indeed, the original start date of the inquiry was delayed at Archyfield's request to give them more time to prepare.

6.9 Network Rail made a number of changes to the draft Order before and during the course of the inquiry. The most recent version of the Order is dated 1 July 2016⁷⁶. Archyfield is critical of these changes, as it alleges that the draft Order as originally submitted failed to identify what it would allow Network Rail to do. Article 4 of the submitted Order states that Network Rail may construct and maintain the scheduled works, which are those specified in Schedule 1 of the Order. Schedule 1 as originally drafted referred to various buildings, including the extension of the Millennium Hotel, but did not state in the schedule what is to happen to them. The draft Order was changed just before the inquiry

⁷⁵ [Email from Historic Environment Scotland to DPEA, 26 February 2016](#)

⁷⁶ [The revised Order submitted by Network Rail on 1 July 2016](#)

so that Schedule 1 refers to “Demolition of extension of the Millennium Hotel, George Square”, amongst other things. We note that Article 2 of the original Order, Interpretation, contains a number of definitions, including “construction”, which is defined as follows:

“construction” includes execution, placing, alteration and reconstruction and demolition; and “construct” and “constructed” have corresponding meanings;

6.10 In addition, the original Order also contains Article 17, which states that Network Rail is authorised to compulsorily acquire land as specified in Schedule 6. This schedule refers to the Millennium Hotel extension, amongst other areas for acquisition, and states that the purpose for which the land is to be acquired is for the re-development of Glasgow Queen Street Station. We agree that the Order as originally drafted could have been clearer. In this regard, we have recommended a number of amendments, which are set out at paragraph 6.184 and Appendix 4 of this report. However, because it also contains the definitions in Article 2, and Article 17 and Schedule 6 in addition to Article 4 and Schedule 1, the purpose of the Order as a whole and its effect on the Millennium Hotel can be readily understood.

6.11 We also note that the Memorandum of Aims⁷⁷, which accompanied the Order, contains a detailed description of the proposed development and states (in relation to the hotel extension):

“The works to be authorised by the TAWS Order are as follows:

- Demolition of the Millennium Hotel 1970s extension;
- Alterations to the Georgian portion of the Millennium Hotel as the result of demolition of the hotel extension”.

Furthermore, Archyfield, as one of the statutory consultees, would have been well aware that the intention was to acquire the extension to the hotel and demolish it to allow for the re-development of the station.

6.12 We conclude that, even before the amendment, it was possible to understand what the Order intended to happen when reading Article 4 and Schedule 1 together with the definition. There was no real or substantial doubt as to what was intended to be authorised by Article 4. The amendment was an improvement in the text and was not a fundamental change.

6.13 Before the application for the Order is made, Rule 3 of the Applications and Objections Procedure Rules requires the applicant to send to Scottish Ministers a draft of the Order that it intends to submit. The rule states that where the draft is amended, the amended version does not have to be submitted unless the applicant considers the amendment substantially alters the nature or effect of the proposed Order. We can find nothing in the Rules which prevents the Order from being changed after the application has been submitted and before Scottish Ministers decide whether or not it should be made. In any event, we consider that the changes that have been made are for clarification or to correct errors. They do not substantially alter the nature or effect of the proposed Order.

⁷⁷ [Memorandum of the Aims of the Proposal](#)

6.14 Archyfield was also critical of Network Rail’s decision to request that Scottish Ministers deem the grant of planning permission by a Direction under section 57(2A) of the Town and Country Planning (Scotland) Act 1997 (as amended). The Guide explains that the main advantages of applying for deemed planning permission at the same time as applying for a TAWS order are that it avoids any duplication of documentation, newspaper and other public notices which would arise with separate TAWS and planning applications. Any objections to the order and to the granting of planning permission are considered by one determining authority at the same time. The Guide goes on to say that applying for planning permission to the planning authority in advance of a TAWS application may nevertheless be preferred where the applicant wants the assurance of planning approval before proceeding to the TAWS process.

6.15 Archyfield asserts that it is unlikely that the proposal would be in the form it is in if it had come through the planning process. We consider that, if it was the determining authority, Glasgow City Council may or may not have required Network Rail to change the proposals. If Network Rail had applied to the council for planning permission, Scottish Ministers may, in any event, have decided to call in such a planning application so that the decision could be taken alongside that for the draft Order. Consequently, we consider that Archyfield’s assertion can be no more than speculation. In any case, in its introductory section, the Technical Guide makes clear that: “As a matter of policy, the Scottish Ministers would not make an order without issuing a planning direction where one has been sought, as consideration of the planning merits would be a part of the consideration of whether to authorise the scheme”. The planning merits of the proposed development are indeed considered in our report.

Potential alternatives to demolition of the hotel extension

6.16 Archyfield criticises Network Rail because it did not consider any alternative schemes that did not involve the compulsory acquisition of the 1970s Millennium Hotel extension and its demolition. We do not consider that this correctly describes how Network Rail developed the project in its early stages. For example, we note the presentation that Network Rail gave to representatives of Archyfield on 21 November 2012 when a number of different options for redevelopment were presented, including a scheme which involved retention of the modern hotel extension and another where the entire hotel would be redeveloped⁷⁸. The various options presented in 2012 seem to have been the first stage in what was an iterative process and no risk assessments appear to have been done for all of these initial options.

6.17 It is fair to say, though, that in the early stages and certainly by 29 August 2013⁷⁹ both Network Rail and Archyfield were exploring options that involved the acquisition and demolition of the modern hotel extension and its replacement with another hotel extension on the land owned by Network Rail to the rear of the hotel. At that time, Archyfield does not appear to have suggested the existing hotel extension could be retained or partially retained, which is the case it made much later in May 2016 at the inquiry.

6.18 Network Rail explains that the Edinburgh Glasgow Improvement Project (EGIP) requires the extension of several platforms at the station to accommodate the longer trains proposed. This necessitates the relocation of the concourse area further south onto land

⁷⁸ [NR-158](#)

⁷⁹ [NR-128](#)

occupied by the former station retail units, Consort House and the hotel extension. Network Rail explained that there can be no structural columns within the “overrun risk zone”, which is why retention of the hotel extension was not considered to be possible in any of the alternative options considered for risk assessment by Network Rail. Removal of the hotel extension (and the retail units and Consort House) would also provide a concourse area with sufficient circulation space for the predicted growth in passenger numbers.

6.19 There is no dispute that the 8-carriage trains proposed as part of EGIP require several platforms at Queen Street Station to be lengthened. There is also no dispute that it is not possible to accommodate the increased length required by extending the platforms to the north alone. Archyild’s witness did question whether it would be possible to gain more space at the north end or to reduce the required length of the extended platforms slightly. Essentially, however, Archyild accepts that the platforms have to be extended southwards too. The dispute centres on whether it is possible to allow structural columns supporting the hotel extension to remain within or just outwith the 20 metre overrun risk zone.

6.20 The process for arriving at the decision that there could be no columns within the overrun risk zone and that, therefore, the hotel extension would have to be demolished is described by Network Rail⁸⁰ in Chapter 2 of this report. For ease of reference, we also summarise it in the following paragraphs.

6.21 Commission Implementing Regulation (EU) 402/2013⁸¹ is a common safety method for risk evaluation and assessment. The Office for Rail and Road issued guidance on its application⁸². The method applies when any technical, operational or organisational change is being proposed to the railway system. If the proposer considers that the change has an impact on safety, they must decide whether or not the change is significant using the criteria set out in the common safety method. If the change is significant, the risk management process in the method must be applied.

6.22 Railway Group Standard – Interface between Station Platforms, Track and Trains⁸³ prescribes the requirements for the design of station platforms for their safe interface with track and trains. Regarding the location of new structures in relation to terminal tracks, it states that: “New structures, including buildings and columns supporting canopies shall not be located within the overrun risk zone extending 20m behind the face of the buffer stop and 5m either side of the projected centre line of the track approaching the buffer stop”. In addition, this standard states that alterations to an existing structure or track layout shall not cause a structure that is outside the overrun risk zone to come within the zone.

6.23 The overrun risk zone is illustrated by Figure G3 from of Rail Industry Guidance Note GI/GN7616⁸⁴, which provides guidance on the Railway Group Standard referred to in the preceding paragraph. The proposed southward extension of platforms 2, 3, 4 and 5 would bring the retail units at the south of the station concourse and the Millennium Hotel extension within the 20 metre overrun risk zone. The hotel extension would be within approximately 18 metres of the new buffer stops. A plan shows the zone and its relationship to the buildings⁸⁵.

⁸⁰ [Network Rail Precognition, Neil Hamilton](#)

⁸¹ [LD-31](#)

⁸² [PD-81](#)

⁸³ [PD-40](#)

⁸⁴ [PD-09](#)

⁸⁵ [NR-160](#)

6.24 Archyfield has suggested that the northern row of columns supporting the hotel extension could be repositioned to move them out of the overrun risk zone. Another alternative could be repositioning the columns and removing the entire lower floor of the hotel extension. Either of these alternatives, according to Archyfield, would allow the hotel extension, or most of it, to be retained.

6.25 However, Network Rail explained that the buffer stop risk assessment process is quite complex. There is always the risk of a train hitting a buffer at much higher speeds than the 20 metre zone is designed for, with the train coming to a halt outwith the zone. PD-37⁸⁶ (Table A5) details the factors affecting buffer stop risk. One of these is the distance of the occupied area from the buffer stop face. Network Rail points out that the table shows that this factor does not terminate at 20 metres from the buffer stop; it goes up to 100 metres. For example, the table states that the risk weighting factor that applies at distances between 10 and 20 metres from the buffer stop face is 0.5; between 20 and 30 metres it is 0.2; between 30 to 50 metres it is 0.1; and between 50 to 100 metres it is 0.01. This means that structures would be at risk from an overrunning train at distances greater than 20 metres, albeit the risk weighting factor is smaller further away from the buffer stop face.

6.26 Guidance on the Interface between Station Platforms, Tracks and Trains⁸⁷ sets out the means to determine the increased risks associated with the use of a frangible deck behind the buffer. Appendix A on page 55 indicates that the risk weighting factor for the Network Rail proposal (no structure in the zone) is 0. This is because the number of people that would be affected by structural collapse would be none, as there would be no building in the zone which could collapse if hit by a runaway train. If the hotel extension remains where it is the risk weighting factor would be 200. The removal of the first floor of the extension and leaving the rest of the extension where it is would also have a factor of 200. This risk factor is applied where there is a high number of passengers, public or staff (defined as an average of more than 100 people) that would be affected by structural collapse.

6.27 Archyfield's witness himself pointed out that the location of Queen Street at the foot of the Cowllairs Incline means there is a heightened risk of braking problems, and consequent overrun, to trains approaching the station. When questioned, he acknowledged that the behaviour of a train during an accident is unpredictable, a point also made a number of times by Network Rail's witness. Archyfield's witness explained that he was not questioning Network Rail's witness' professional judgement and he was not suggesting that safety should be compromised. The thrust of his argument is that there should have been dialogue between Network Rail and Archyfield so that the latter could understand the reasoning behind the decision that the hotel extension had to be demolished.

6.28 Network Rail's witness explained that professional judgement must be used in the risk assessment process and a conservative approach should be taken when there is a high risk to passengers of an overrunning train. Network Rail undertook no risk assessment of the Millennium Hotel potential alternative proposals as any scenario where a structure that remains in the overrun risk zone and would be at risk of collision is totally unpalatable.

⁸⁶ [PD-37](#)

⁸⁷ [PD-09](#)

Archyfield's proposal to move the columns 1 metre to the right of the overrun risk zone is treated in a similar manner, as this would not remove them from risk of collision.

6.29 In the circumstances outlined above, we conclude that Archyfield's criticism of Network Rail for the lack of consideration of alternative schemes has no substance. Firstly, we note that alternative schemes not involving demolition of the hotel extension were indeed considered in the early stages. Secondly, we agree with Network Rail that the consequences of a runaway train colliding with the support pillars of the hotel extension are sufficiently serious for the retention of the hotel extension not to be considered as a viable option at all. There is simply no point undertaking a risk assessment of such an option in these circumstances.

6.30 Archyfield appointed an architect to design alternative proposals for the re-development of Queen Street Station that would retain the upper floors of the hotel extension. Their witness considered that they would meet the requirements for the size and height of the station concourse. We were not entirely convinced by his arguments, as we consider that the retention of the upper floors of the hotel extension would inevitably compromise the internal space in the new station. Retention of the support columns in the concourse area would also compromise the concourse space. In any event, as we have already concluded that the retention of the extension would not be a viable option, there is no need for us to consider this matter further.

Built heritage and design issues

6.31 The Queen Street Station train shed is a Category A listed building. At the moment views of the train shed from the south outside Queen Street Station are restricted by the Millennium Hotel extension. It is just possible to see the top of the arch of the train shed from the south part of George Square near St Vincent Place. The train shed cannot be seen from West George Street or the north part of George Square. Even the glimpsed view from the south of George Square is affected by the plant room and flagpole on top of the extension and the train shed is not very noticeable. We do not consider that this view would be detrimentally affected by demolition of the hotel extension and the construction of the new station building, as the height of the new building would be no higher than that of the hotel extension. Indeed, as the new building would be lower than the height of the plant room on top of the hotel extension, it would be possible to see slightly more of the arch of the train shed than it is at the moment.

6.32 Entering the station via the southern entrance under the hotel extension, it is possible to see most of the arch of the south gable of the train shed at close quarters and in the open air. This view would be lost, as the new station building would be built adjoining the train shed's south elevation on land presently occupied by the retail units and the hotel extension. However, the importance of retaining views of the train shed has been recognised by Network Rail's architects and the new building would have a sloping clerestory window providing views of the south gable of the train shed from within the concourse. There would also be another clerestory window in that part of the new building on the west side of the train shed.

6.33 We saw at our site visit inside the station in March that the project would involve uncovering as many of the fine original cast iron support columns of the train shed as possible. In addition, it would still be possible to see the inside of the south gable of the train shed from inside the station, as it is at the moment. In these circumstances, we do not

consider that the loss of the limited view of the south gable of the train shed from the open air is a significant issue.

6.34 We note the comments made by Historic Environment Scotland in February 2016. It pointed out that views to the south elevation of the shed have always been partially obscured by the buildings along West George Street and the current buildings almost completely screen the historic shed. It is Historic Environment Scotland's opinion that these buildings detract from the setting of the A-listed building. Historic Environment Scotland considers the proposed replacement building improves on the current situation, allowing the train shed to be more visible in views from the south, and confirmed it was content with the proposals insofar as they relate to the A-listed train shed. We agree with Historic Environment Scotland and conclude that the proposed development would not have a detrimental impact on the train shed or its setting.

6.35 The Millennium Hotel is listed as Category B. Network Rail proposes to demolish the 1970s extension to the hotel. For interests of fire safety and security of the station building, Network Rail also proposes to infill all of the remaining original windows on the west elevation of the original hotel building. A fire wall forming the east elevation of the new station building would be constructed approximately 2.5 metres away from the west elevation of the hotel.

6.36 The gap between the new station building and the hotel would be enclosed, with a glazed screen facing the pavement. This screen was originally proposed to line up with the front elevation of the hotel. Following consultation with Historic Environment Scotland the screen was moved further back to the same line as the existing link to the hotel extension. This means that the existing two vertical lines of blank windows on the first, second and third floors of the west elevation of the hotel would be visible from West George Street/George Square as they are at present. The glazed screen would also allow some visibility of the other windows further back on the hotel's west side (which would be infilled), particularly since it is intended to illuminate this area, as the Design and Access Statement explains.

6.37 The hotel extension currently screens most of the west elevation of the original hotel building from views from the south, apart from the existing blank windows towards the front of the elevation mentioned above. When entering the station through its southern entrance underneath the hotel extension, it is possible to see the rear part of the west elevation of the original building. Network Rail's architect refers to this elevation as "of a modest well-proportioned character". We agree that this description would have been applicable to the unaltered west elevation of the original hotel building. Now though, the rear part of the west elevation of the original building, visible from just outside the south entrance to the station, has a very unprepossessing and somewhat dilapidated appearance. The hotel extension cuts across two windows on the second and third floors and obscures much of the original elevation. A solid fire escape wall cuts across a window on the first floor and obscures part of the first floor and all of the ground floor from view. The stone work on the west elevation has been painted and the paint is patchy and flaking off. We do not consider the loss of this view of the west elevation of the original hotel building from just outside the south station entrance would be of great significance.

6.38 We note that Historic Environment Scotland does express some concerns about the impact of the proposals on the hotel. It says that obscuring the side elevation would be regrettable but, in view of the justification set out in the Design and Access Statement, it is

content with the arrangement in the circumstances. Historic Environment Scotland would also prefer that the windows on the west elevation remained in place and that they were left unblocked, as that would preserve more of the historic character of the building. However, it notes Network Rail's fire strategy justification and states that it is content with this intervention in the context of the overall scheme.

6.39 We share the concerns expressed by Historic Environment Scotland in relation to the retention or infilling of the windows. Glasgow City Council also expressed the same concerns during discussions at the hearing session on the suggested conditions. However, we do accept that the fire wall for the station has to be built some distance away from the hotel to avoid disturbing the hotel's foundations.

6.40 Network Rail has explained that the space between the west elevation of the hotel and the new fire wall would form part of the station footprint. Network Rail's fire strategy consultants consider that this space should not be exposed to the risk of fire from the hotel. Fire and smoke entering this space would be likely to cause damage to the station and smoke entering this space from the hotel would be detected by the station's smoke detection system. Infilling the windows on the western gable would reduce the risk that smoke would enter the station and reduce the likelihood of a fire within the hotel impacting on the station in any way. This would also help limit the number of instances where a fire within the hotel would lead to evacuation of the station and vice versa. Consequently, we accept that infilling of the windows is necessary in the context of the currently proposed fire strategy arrangements.

6.41 Following discussion of this issue at the inquiry Network Rail submitted a note (the Windows Note)⁸⁸ and indicated it was prepared to discuss the possibility of retention and reinstatement of the windows in the west elevation of the hotel, as suggested by Archyfield. The note requires that such discussions would be complete within 10 weeks of 16 June 2016 (by 25 August 2016) to avoid delay to the proposed development. We note that the discussions that have taken place so far indicate that Archyfield's potential solution requires further investigation⁸⁹. If it proves to be acceptable further consents would be required. We are encouraged that Network Rail is prepared to negotiate a change to its proposals to try to accommodate Archyfield's suggestion at this late stage. We are of the view that it would be of benefit to the character of the listed building if the windows could be retained and reinstated and not infilled. However, if it is not possible to retain and reinstate the windows, we do not consider that the current proposal to infill the windows is sufficiently detrimental to the character of the listed building to justify not making the Order.

6.42 We consider the amended position of the glazed screen on the front elevation of the new station building adjoining the hotel and the amended treatment of the ground floor elevation of the gap following further discussions with Historic Environment Scotland are improvements on the original proposals. We believe the impact of this part of the proposed development on the setting of the Millennium Hotel would be some improvement over the current situation and how the extension relates to the original building at present.

6.43 Archyfield criticises the new station building because it "turns its back" on the hotel. Historic Environment Scotland considered that the erection of the firewall missed the opportunity to integrate the two listed buildings in the same way that other mainline stations

⁸⁸ [Network Rail note on the Millennium Hotel windows](#)

⁸⁹ [Email from Alison Gorlov to DPEA dated 2 September 2016](#)

connect with their 19th century hotels (for example, at Glasgow Central and St Pancras). However, as Network Rail pointed out, the Millennium Hotel has never been integrated with the station in the same way as the Central Hotel at Glasgow Central Station. We do not consider that the relationship between the Millennium Hotel and the new station building would be so very different to the current arrangement, as the hotel would still be located next door to the station, albeit the entrances would be slightly further apart.

6.44 Overall we conclude that the removal of the unsympathetic 1970s extension to the hotel, Consort House and the retail units and their replacement with the new station building would improve the setting of the Category B listed original hotel building and of the Category A listed train shed and also the other listed buildings in the vicinity.

6.45 The application for the Order was accompanied by an environmental statement which contained Chapter 6 – Built heritage, Chapter 10 – Townscape and visual, Appendix H – Townscape and visual, Appendix H1 – Townscape and visual and Appendix I – Heritage Statement. Separately, Network Rail submitted a Design and Access Statement and a Heritage Statement (which is the same as Appendix I of the environmental statement).

6.46 Chapter 6 of the environmental statement describes the likely effect of the proposed development on the built heritage, which is defined as the listed buildings on the application site and neighbouring buildings of historic and architectural interest. The assessment considered effects of demolition, construction and operation and cumulative effects, covering direct physical effects on fabric as well as indirect effects on the setting of the built heritage assets.

6.47 In relation to the new station building, the assessment in Chapter 6 concludes that, for the train shed and Cathedral Street Bridge, the proposed building would provide a high quality landmark building which would re-connect the historic train shed to George Square and other surrounding streets. The new building would allow for improved views of the train shed, both from outside and inside the station. With regard to the hotel, the assessment concludes that the existence of the new station building would have a direct beneficial effect by removing the 1970s extension which detracts from the visual interest of the hotel. It would be replaced with a building of higher design quality and greater visual interest.

6.48 The townscape assessment in Chapter 10 considered an area of the Glasgow Central Conservation Area, up to 200 metres around the development site, in terms of its built form and character, and the smaller area of George Square itself. The impact on visual amenity was assessed on the basis of six key views within 200 metres of the site. No longer views were assessed because of the built-up nature of the area around the site. The key views of the development site were agreed with Historic Scotland (predecessor to Historic Environment Scotland). The assessment concludes that the proposed building would affect only a small part of the Merchant City Character Area and would be a new landmark building.

6.49 In relation to the impact on George Square the proposed building would follow the roofline of the Millennium Hotel and George House and would be a landmark transport hub and part of the urban townscape. The assessment of the impact of the building on the views concludes that they would all be maintained. In addition, there would be a minor beneficial effect on the view looking across George Square from the south.

6.50 In October 2015, Historic Environment Scotland had some criticisms of the assessments in the environmental statement, stating that they are light touch in nature and, in the case of the built heritage assessment, do not necessarily provide the level of detail required to come to a firm view on the application proposals. Historic Environment Scotland was concerned that no detailed drawings were provided showing the interface between the new development and train shed and hotel.

6.51 However, further discussions took place between Network Rail and Historic Environment Scotland and more information was provided for the inquiry. This enabled Historic Environment Scotland to confirm that it was satisfied it had been provided with an adequate level of information to advise on the impacts of the proposals. Its response on the relationship of the proposed building to the train shed and the Millennium Hotel has been described above. Historic Environment Scotland confirms that Consort House does not contribute positively to the character of Glasgow Central Conservation Area and it has no objection to its demolition. In October 2015, in reply to a consultation on the application for listed building consent from Glasgow City Council, Historic Environment Scotland stated that the buildings to be demolished, which all date from the 1970s, do not contribute to the special interest of either the train shed or the Millennium Hotel and it is content with their removal.

6.52 The Design and Access Statement⁹⁰ describes the design principles and concepts and the form and context of the proposed development. It includes a site analysis and explains how the building form responds to its context. It explains that it is one of a suite of documents accompanying the application for the Order and the listed building consent and conservation area consent applications. Other documents include the environmental statement, the Planning Statement and the Heritage Statement⁹¹. The latter document gives an account of the historic development of the station and its surroundings, describes the significance of its various parts and its setting, and assesses the impact on the historic environment of the proposed works.

6.53 Archyfield criticises the design of the building, drawing attention to comments made by the Glasgow Urban Design Panel in February 2015 and by Glasgow City Council and Historic Environment Scotland in October 2015. Archyfield refers to the Historic Scotland publication *New Design in Historic Settings*⁹², picking out 3 key points:

- New development should seek to understand, acknowledge and make a positive contribution to the existing urban structure;
- New development should respect urban grain; and
- New design should consider the surrounding scale, hierarchy and massing of the existing built form.

6.54 We do not agree with Archyfield's assertion that it is difficult to see how any regard has been had to the above guidance. The analyses submitted in the environmental statement and the Design and Access and Heritage Statements, as outlined above, demonstrate that Network Rail's architects and advisors understand and acknowledge the urban structure and respect the urban grain. We consider that the design of the proposed building, by restricting its height to below that of the Millennium Hotel and the train shed,

⁹⁰ [NR16](#)

⁹¹ [NR17](#)

⁹² [PD-88](#)

has considered and respected the surrounding scale, hierarchy and massing of the existing built form. We believe that the proposed building would make a positive contribution to the existing urban structure.

6.55 In relation to Archyfield's specific criticisms, the proposed building would be different to all of the others in the area, but we do not regard that as a negative attribute. We do not consider that it would be at odds with its context, although we believe it would be a landmark building. Archyfield is not correct to say that the proposed development would reduce the views of the arched gable of the train shed; indeed, more of the train shed would be seen from outwith the station than is the case currently.

6.56 We agree with the point made by Historic Environment Scotland, that Consort House, the station retail units and the hotel extension do not make a positive contribution to the character of the conservation area. We also agree with the assessment made by Network Rail's architect, that the station concourse building currently lacks any civic quality internally and any civic presence externally. Furthermore, it is our view that the proposed building would be a vast improvement in comparison with the buildings that are on the site at the moment.

The effect on Archyfield and the hotel

6.57 There is no doubt that the loss of the 51 guest rooms in the modern hotel extension would have a profound impact on the hotel and how it is run. We accept the evidence from Archyfield that the reduction in size would put the hotel into the 'boutique hotel' category and that it would have to be operated and marketed differently. We also acknowledge that it is likely that some jobs would be lost. We sincerely regret the very real personal impact on those people who would be affected.

6.58 We note that Historic Environment Scotland is concerned that the building has a viable long term future and we share those concerns. However, we have no evidence that it would not be possible to operate a smaller boutique type hotel at the site. Indeed, Archyfield's witness on this issue acknowledged that the company could operate a smaller format, but this needed to be investigated. The witness also agreed that other hotel operators could be found who would be able to operate a smaller boutique hotel at the site. Furthermore, Archyfield's witness made it clear that he was not saying that Archyfield itself would not operate a smaller hotel at the site.

6.59 Network Rail's original intention was to gain temporary possession of the hotel during the demolition of the extension and construction of the new station building. Archyfield objected to this aspect of the original Order. Agreement was subsequently reached to allow Archyfield to remain in possession of the original hotel building and to continue to operate a hotel in the original building for the duration of the demolition and redevelopment contract. In addition, Archyfield is keen to maximise the number of bedrooms that could remain following separation works by exploring options that would allow the windows in the west elevation to be retained and reinstated rather than infilled.

6.60 We accept that there is no guarantee that a smaller hotel would be as successful as the current operation. Nevertheless, Archyfield's objection to the temporary possession of the entire hotel and its suggestion that the windows need not be infilled to allow more bedrooms to be retained lead us to believe that Archyfield is determined to use its best endeavours to continue operating at the site. Even if Archyfield itself decided at some point

in the future that the smaller hotel did not suit its portfolio, we consider that the location of the buildings in George Square, adjacent to the redeveloped station and at the heart of Glasgow city centre would maximise the possibility of another hotel operator coming forward. We conclude that there is no evidence that making the Order would result in the listed building at the Millennium Hotel falling into disuse.

6.61 Archyfield is also concerned about the difficulties in servicing the hotel during the demolition and construction works. One of Network Rail's witnesses stated in his precognition⁹³ that the Waste, Delivery and Access Strategy for Businesses⁹⁴ "specifically looks at the requirements of the hotel". However, when questioned he acknowledged that there was nothing in the strategy that referred to the hotel and he was happy to delete that sentence from his precognition.

6.62 The full title of the access strategy is 'Draft Framework Waste Delivery And Access Strategy For Local Businesses'. It outlines the temporary road alterations and use during the demolition and construction programme. It describes the concerns expressed by a number of local businesses around the station but does not include the Millennium Hotel. Network Rail did not explain why the hotel was omitted. At first glance, this is a strange omission given the proximity of the hotel to the station. However, we presume the hotel was not included because in January 2016, when the access strategy was written, Network Rail's intention was to gain vacant possession of the entire hotel for the duration of the redevelopment project. In those circumstances there would be no need to maintain access to the hotel.

6.63 The draft access strategy explains that the demolition/construction programme is indicative and is subject to change once the contractor has been appointed and its methods are known. At that stage, we expect that the access strategy would also be finalised and we have included a condition to cover this matter (see condition 3(f) in Appendix 2). The condition specifies that the Millennium Hotel should be covered by the Roads, Traffic Management and Servicing Plan.

Environmental assessment

6.64 Network Rail submitted an environmental statement in respect of the application, and subsequently submitted two documents with further environmental information. The first document with further environmental information was referred to as an addendum to the environmental statement and was submitted with Network Rail's precognitions four weeks before the inquiry; the second was entitled "Millennium Hotel Noise Level Survey" and was submitted during the inquiry.

6.65 We have set out in Appendix 3 to this report our findings on the significant environmental effects of the proposed development and the main measures to avoid, reduce and remedy major adverse environmental effects of the proposed development. We deal below with criticisms made by Archyfield of the environmental statement.

6.66 Archyfield criticised the number of alternatives considered by Network Rail in the environmental statement as unduly restricted. The broader question of whether other alternatives to the development promoted in the Order ought to have been considered is

⁹³ [Alan DeVenny, precognition](#)

⁹⁴ [NR-118](#)

dealt with above. As regards environmental impact assessment, a developer is required by Rule 9(1) (d) of the Applications Rules to report in the environmental statement on alternatives studied. Archyfield argued specifically that since Network Rail had considered the alternative of redevelopment in conjunction with the Buchanan Galleries extension, that ought to have been reported on. However, Network Rail did not study the station's redevelopment with the Buchanan Quarter as an alternative to the development for which the application was made: the evidence indicates that from 3 July 2015 Network Rail's understanding was that the Buchanan Galleries extension would not proceed until after the station redevelopment had been completed⁹⁵. The application was made on 11 September 2015. Therefore, at the time, a redevelopment in conjunction with the Buchanan Galleries extension was not in prospect.

6.67 As regards the alternative suggested by Archyfield involving retention of the 1970s hotel extension, Network Rail's evidence is that it did not study this (since it would not have delivered the primary objective of three extended platforms capable of accommodating eight-carriage trains in a safe station environment). Therefore, Network Rail was not required to report on such an alternative in the environmental statement.

6.68 Archyfield criticised a number of aspects of the cumulative assessment methodology: First, Archyfield argued that not all other projects with which the proposed development was likely to have significant environmental effects had been identified in the environmental statement.

6.69 It is undoubtedly good practice to limit an environmental impact assessment to those effects that are likely to be significant, and, therefore, in a cumulative assessment to identify as a baseline for assessment only those other projects with which the proposed development is likely to have significant cumulative effects. We consider it is perfectly proper to apply criteria to eliminate projects that are not likely to be relevant to that assessment.

6.70 We understand Archyfield's main criticisms to be of the specific criteria used to identify the baseline for cumulative assessment⁹⁶, a case probably most succinctly put in their response to the addendum to the environmental statement⁹⁷. Archyfield criticised the criteria of proximity and scale applied by Network Rail, to identify developments forming part of the baseline, ie the requirements that to be considered in the baseline a development should fall within a 350 metre catchment around the development site and should be either a national or major development (using the terms of the planning hierarchy). Archyfield argued that the criteria could not be relied upon to capture all developments with which the proposed development was likely to have significant environmental effects. Archyfield suggested that the choice of the specific criteria was made as a matter of convenience rather than having any cogent connection with the significance of the cumulative effects or had not been considered in the context of the specific type of effect assessed.

6.71 It is inevitable that in setting criteria to identify a baseline for cumulative assessment, a degree of professional judgement is required. It appears to us that Network Rail did apply its professional judgement in setting its criteria of scale and proximity. As regards proximity,

⁹⁵ [Jeff Jardine precognition paragraph 4.17](#)

⁹⁶ see paragraphs 3.89 to 3.92 above

⁹⁷ [Pinsent Masons letter dated 24 May 2016](#) (Archyfield comments on addendum to the environmental statement)

Network Rail's witness gave evidence that the cumulative assessment boundary of 350 metres had been arrived at by using the boundary of the air quality assessment – the furthest of any of the assessment boundaries used for the assessment of individual topics⁹⁸.

6.72 Network Rail tested its judgement by carrying out a high level review of developments outside the 350 metre boundary, finding none that would be likely to have significant environmental effects with the proposed development. Furthermore, it reviewed both the criteria and the results with the council. Since the council has a statutory role not only as planning authority but also in enforcement of environmental health legislation in respect of construction sites and more generally, it can be expected to have an informed view on developments that ought to be considered in a cumulative assessment. The council did identify one additional development to be considered that, as a local development, fell just below the scale criterion – a development of student accommodation at 366 Cathedral Street. This was then included in the cumulative assessment.

6.73 Archyfield did not identify any specific development or group of developments that ought to have been considered as part of the baseline for cumulative assessment but was excluded on account of Network Rail's application of the scale or proximity criteria. Taking the cumulative assessment process as a whole, therefore, we do not find it likely that significant cumulative effects have been missed in the environmental impact assessment as a consequence of Network Rail's use of their chosen criteria of scale or proximity for baseline developments.

6.74 Second, Archyfield suggested that Network Rail had set a "temporal boundary" for cumulative assessment, and so had ignored the potential cumulative construction effects of building projects that were planned to be carried out at a different time, particularly as regards air quality, traffic and transport and noise. In this respect, Archyfield criticised the omission from the cumulative assessment of Archyfield's proposed northern extension of the Millennium Hotel and of the other phases of the Edinburgh Glasgow Improvement Project, including particularly the track slab replacement works and platform extensions.

6.75 As regards the exclusion of Archyfield's proposed northern extension of the Millennium Hotel from cumulative assessment, we accept Network Rail's reasoning. Network Rail controls the land on which the development is proposed. Network Rail says it will not proceed until after the station redevelopment works are complete. Archyfield's planning permission is due to lapse on 1 April 2018⁹⁹, before the station redevelopment works are complete on the present programme. It does not presently appear, therefore, that the hotel extension would go ahead as presently approved. We find it was not necessary for Network Rail to consider the hotel extension as part of the cumulative baseline.

6.76 Archyfield criticised the omission from the assessment baseline of track slab replacement as part of the Edinburgh Glasgow Improvement Project on the basis that the works might overrun and so overlap with the station redevelopment, or a continuous period of development might itself have environmental effects. We understand that in fact the track slab works and platform extensions were completed on 7 August 2016. Given that the track slab works were programmed for 20 weeks with a finish on 8 August 2016, and that, at the earliest, the station works were programmed to start in October, there appears to be

⁹⁸ Fraser Maxwell oral evidence; see also [Winkworth Sherwood letter 17 June 2016](#) (Network Rail response to Archyfield comments on addendum to the environmental statement)

⁹⁹ [MH 3 – Planning decision notice 14-02831-DC](#)

a significant gap after the completion of the track slab works that would make effects of a continuous period of development unlikely.

6.77 In evidence, Network Rail's witness said that the works had been examined and there appeared to be no impact upon local businesses or on the operation of station facilities and that they had different effects from the station redevelopment. The effects would primarily be in disruption of train services to the High Level Station, while the station redevelopment would not disrupt those train services. He therefore gave his opinion that no significant cumulative effects were likely to arise¹⁰⁰. We heard no contrary evidence, so we accept this. We also heard evidence that the platform extensions to the north would take place during the closure for track slab works¹⁰¹, and understand that they also have been finished.

6.78 Archyfield has acknowledged that the cumulative assessment provided in the addendum to the environmental statement now covers the Buchanan Galleries extension. It does not make any other specific claims in respect of developments excluded because of the "time boundary" it alleges was applied to noise impacts and impact on air quality. There is no evidence that Network Rail did in fact apply such a "time boundary". What appears from the environmental statement is simply that it considered the effects of the various baseline developments with the proposed development and found that, in particular cases where the construction of the developments did not coincide, there were no significant cumulative effects, whether dust, noise or any other effects, from construction.

6.79 Taking their first and second criticisms together, Archyfield makes the further general assertion that: "many local developments that do not have significant effects on their own could, in combination, whether occurring simultaneously or over a sustained period of time, amount to a significant effect, particularly on health and wellbeing, which becomes 'worn down' by the persistent effects of noise and dust". While as a general proposition this is true, expressed as a criticism of an environmental statement it amounts to no more than a generalised concern. It does not identify any specific receptor to which such a "wearing down" might occur or any reference to specific developments that might be involved in creating such a cumulative effect. Given that the council has not raised any concern in respect of the cumulative assessment of noise and dust effects, we are content the evidence does not indicate that significant cumulative effects have been missed in the environmental impact assessment process.

6.80 Thirdly, Archyfield criticised several aspects of the cumulative assessment of traffic and transport. Archyfield alleges that the operational effects of the redeveloped station are not taken into account, and specifically that no assessment was made of the service delivery routes to the hotel. Network Rail explains that the environmental effects of traffic and transport at the development's operational stage were scoped out of the environmental impact assessment, since the proposed development would not give rise to any increase in vehicular traffic. Evidence was led at the inquiry on the servicing of the remaining portion of the hotel, and our conclusions on this are found above. We do not consider a separate issue arises in respect of environmental impact assessment. Archyfield also suggests that cumulative effects of traffic and transport impacts with the southern platform extensions have not been examined. The greater part of the extended platform wells were being constructed during our site visit in accordance with the construction programme¹⁰². It is

¹⁰⁰ [Fraser Maxwell precognition paragraph 4.31 to 4.33](#)

¹⁰¹ [Alistair Camelford precognition paragraph 4.5](#)

¹⁰² [NR-171 drawing no. 910902 \(indicative construction phasing April to August 2016\)](#)

evident that the relatively limited remaining work on the southern platform extensions coinciding with the proposed development was considered in the environmental statement as part of the overall station redevelopment project¹⁰³.

6.81 Network Rail gave evidence that the sprinkler system, driver accommodation and replacement electricity substation to be built on the present North Hanover Street car park (plot 26) were essential for the station redevelopment to proceed. However, they were not included in the environmental assessment for the station redevelopment because they had originally been incorporated in the proposals for the Buchanan Galleries extension which were unexpectedly delayed at a late stage. Although it had initially sought consent under the Order for these works, Network Rail decided at the inquiry that it would submit a separate application to Glasgow City Council. Following the inquiry, Network Rail provided us with greater detail on the intended form of these works¹⁰⁴ and evidence from its environmental and ecology consultant that no significant cumulative effects were likely with the proposed development given the works' relatively limited scale¹⁰⁵.

6.82 Archyild has made a number of criticisms of this evidence¹⁰⁶ relating to the additional traffic generated, construction noise, and the visual effect on listed buildings. We accept Network Rail's reasoning that, if no significant cumulative traffic effects have been found with the Buchanan Galleries extension, the much lower level of traffic associated with the driver accommodation would be unlikely to generate such effects. We also accept that there is unlikely to be significant cumulative effect from construction noise, on the assumption that similar regulation is to be applied as would be applied to the proposed development. Assuming a sensitive design of limited visibility¹⁰⁷, given the proposed location and its current condition, and given that the much larger Buchanan Galleries design approved on the same land has not been found to have significant visual effects, we also accept that significant visual effects of the proposed three elements are unlikely.

6.83 The three elements are physically separate from the redevelopment of the station building. We do not accept that the law requires these separate elements to be environmentally assessed as part of a single project with the proposed development simply because they are necessary for it to proceed. Their likely effects must be considered as cumulative effects of the station redevelopment project. However, we find on the basis of Network Rail's evidence that no significant cumulative effects are likely as a consequence of these three elements. We, therefore, do not consider treatment of the three elements as part of the project for the purposes of environmental impact assessment would have made any substantive difference to the assessment or to our recommendations.

6.84 In its response to the addendum to the environmental statement (though not in submissions), Archyild claims that evidence at the inquiry established that the authors of the noise chapters of the environmental statement and its addendum were not sure what works they were assessing when predicting evening and night time noise, a matter of importance to the hotel's owners in particular. Network Rail's noise witness had stated in his precognition that potentially significant effects had been identified at the western façade of the Millennium Hotel at night due to debris removal activities involving the loading and

¹⁰³ Environmental statement paragraph 2.5.13 and table 2.3 (phase 17)

¹⁰⁴ [Affidavit by Alistair Camelford dated 16 September 2016](#)

¹⁰⁵ [Affidavit by Fraser Maxwell dated 16 September 2016](#)

¹⁰⁶ [Email from Gordon McCreath, 30 September 2016](#)

¹⁰⁷ [Affidavit by Fraser Maxwell dated 16 September 2016](#) paragraph 15(c)

unloading of materials¹⁰⁸. The addendum to the environmental statement indicated that the threshold of significance would be exceeded by about 10 dB for fourteen months at the western façade of the Millennium Hotel on account of “lorry loading during light demolition and heavy demolition”¹⁰⁹. Network Rail’s witness was unable immediately to explain the discrepancy. He has since explained in a note that, while light demolition activities are anticipated during the night as outlined in the construction programme, these were not identified as giving rise to any significant environmental effects. The carting away activity, when there was light demolition, was the reason for the exceedence at the Millennium Hotel’s western façade¹¹⁰.

6.85 Network Rail’s agent has since confirmed the position that light demolition is proposed at night in accordance with the construction programme, where a railway possession was required¹¹¹. Attention has been drawn to the definition of light demolition in appendix F2 of the environmental statement in terms of the use of certain specified equipment. The environmental statement refers in several places to the possibility of work, including demolition, outside core hours where railway possession was required¹¹².

6.86 The construction programme outlined in the evidence of Network Rail’s construction witness makes it plain that a number of elements of the station, particularly at its western side, would have to be demolished at night to reduce risk to station users¹¹³. These include some demolition work on the Consort House tower and all work on the north and south podiums of Consort House. Given the evidence of Network Rail’s noise witness¹¹⁴ we assume that all such demolition work at night would be light demolition, unless circumstances unforeseen at this stage arise. Regulation of noise is to be dealt with in the code of construction practice as approved by the council. It is also subject to controls under sections 60 and 61 of the Control of Pollution Act 1974. These controls should be sufficient to protect noise sensitive neighbours, including the Millennium Hotel. Therefore, although Archyfield suggested a specific restriction being imposed on heavy demolition at night, we do not find it necessary to recommend such a further specific restriction.

6.87 Archyfield criticised the wide scope of the ancillary works the draft Order would grant authority for under article 5 and schedule 2. It argues that ancillary works should be restricted to those identified in the environmental statement. Archyfield may be suggesting that, in order to be permitted, any ancillary work, no matter how minor, must be expressly listed in the environmental statement’s project description. If that is their suggestion, we consider it goes too far. A project requires to be assessed in accordance with rules 5 and 9 of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007. Rule 5 requires a statement of environmental information to be submitted in respect of any proposed works that are to be covered by an application for a development falling within Annex II of the Environmental Impact Assessment Directive (2011/92/EU) (as the proposed development does), unless the Scottish Ministers have given a negative screening decision. Rule 9 and Schedule 1 set out the requirements for such a statement.

¹⁰⁸ [Dr David Hiller precognition paragraph 5.28](#)

¹⁰⁹ [NR-145 Addendum to the Environmental Statement, table 6.4, item 7a](#)

¹¹⁰ [Dr David Hiller note of 25 May 2016](#)

¹¹¹ [Winkworth Sherwood letter 17 June 2016](#)

¹¹² NR-22 Environmental Statement, paragraph 2.5.10, paragraph 8.9.2

¹¹³ [John Slade, precognition paragraph 3.3](#)

¹¹⁴ [Dr David Hiller note of 25 May 2016](#)

6.88 While a project description including information on the site, design and size of the proposed works is required as a minimum in an environmental statement, such a statement is only required to include a description of the physical characteristics of all the works covered by the application if that can reasonably be required in order to assess the environmental effects of the proposed works and the applicant can, having regard to current knowledge and methods of assessment, reasonably be required to compile the information¹¹⁵.

6.89 It is not unusual in large projects such as the proposed development that not every detail of ancillary works is known at the stage at which development consent is sought. In such a case, it would not be reasonable to require a description of all details of all works, particularly where to do so would not provide any further information to support conclusions on the significant environmental effects of the project. At this stage Network Rail does not know precisely the nature of the ancillary works. To address Archyfield's concern that there might be ancillary works that have significant environmental effects not already identified in the environmental impact assessment, Network Rail proposed an amendment to the Order providing a mechanism whereby such works would be subject to environmental impact assessment at the time an application is made for their approval.

6.90 We have proposed certain amendments to the Order and set out the reasoning for these at paragraph 6.184 and appendix 4 below. However, we do not find it appropriate to grant consent through the Order that would provide authority for future works that might follow the station redevelopment project, whether on the model of permitted development rights Network Rail claims it would have had if it had sought authorisation for the proposed development by private Act of Parliament or otherwise. We have recommended amendments to Articles 4 and 5 of the Order accordingly, so that the authorisation granted is solely for the station's redevelopment (the construction phase) and works ancillary to that and not for works ancillary to the redeveloped station's subsequent maintenance or use.

6.91 Network Rail is correct that where details of environmental impact assessment development - such as ancillary works in the present development - are reserved for subsequent approval, significant environmental effects may be identified at the detailed approval stage that were not previously anticipated or assessed. We consider that the changes we have proposed to Articles 4 and 5 of the Order would minimise any likelihood of there being any significant environmental effect not already assessed arising from proposed ancillary works. However, since the precise nature of ancillary works is not at present known, the possibility of such effects cannot be ruled out. Network Rail's proposed mechanism (found in Articles 2, 5(d) and 38 of its draft Order¹¹⁶) for further environmental impact assessment is not entirely satisfactory. It makes no express arrangement for consultation with statutory consultees or advertisement to the public of such an environmental statement. Furthermore, article 34 provides an expedited system for an application for approval required under conditions of deemed planning permission requiring the application to be determined within 28 days, unless otherwise agreed (any further information must be requested within 7 days of the application; in the absence of a decision, approval is deemed to be granted).

6.92 This arrangement does not appear to allow sufficient time for consultation of statutory consultees or response from the public in respect of any further environmental

¹¹⁵ Reading the definition of "environmental statement" in article 2 of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 together with schedule 1 of those Rules

¹¹⁶ [Network Rail draft Order, 1 July 2016](#)

statement. We have therefore proposed amendments (further described in appendix 4) that adapt the existing regime for multi-stage consents in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 and apply it to applications for approval under deemed planning permission associated with the Order. We consider that these amendments will address Archyfield's concern in respect of environmental assessment of ancillary works.

6.93 Archyfield criticises the environmental statement for not addressing the effect on the Millennium Hotel's setting as a consequence of its extension's demolition. It appears to us that any effect on setting is subsumed into the overall evaluation of the direct effects of the extension's demolition (see the section on "Built heritage and design issues" above). Archyfield also suggests that the environmental statement's conclusion that there is no practical way of avoiding residual effects whilst delivering the proposed development on the basis that an alternative approach might have had less of an effect. This is a return to Archyfield's theme that insufficient alternatives were studied, which has been dealt with above.

6.94 A separate issue raised by Archyfield was whether a traffic and transport assessment had been carried out in respect of demolition of the Millennium Hotel extension. Network Rail's witness explained that the demolition of Consort House represented the greatest traffic impact, and was therefore treated as the worst case in the traffic and transport assessment. Any issues relating to traffic arising from the demolition of the Millennium Hotel extension would not be as great as those already assessed for Consort House. We conclude that had there been any likely significant effects of the demolition of the Millennium Hotel extension on traffic and transport, they would have been identified by this process.

6.95 Archyfield suggests, in the context of its argument that the Order is insufficiently specific, that the time of the works should be controlled¹¹⁷. It is not entirely clear what is meant here, though we understand this to relate to Archyfield's proposal of a phasing condition. We discuss that proposal in the Conditions sub-section below.

6.96 Archyfield makes a general point with reference to *Hardy and Maile v The United Kingdom [2012] ECHR 261* about the appropriate investigations that must precede a government decision-making process such as the present process. In this context it refers to the claimed inadequacy of the cumulative assessment, a matter we have dealt with above, and to the submission by Network Rail of an addendum to the environmental statement shortly before the inquiry started.

6.97 It is not unusual in a large project for additional environmental information to be submitted after the initial application, particularly in response to criticisms made of the environmental statement initially submitted or to reflect changes in the project in response to criticism. The addendum was, in fact, submitted at least partly in response to criticisms by Archyfield of the proposed project, since it dealt with the continued occupation of the Millennium Hotel through the period of construction of the proposed development.

6.98 Archyfield was given the full statutory period to consider and respond to the addendum at a time when no decision on the project had been reached. It did not ask for more time to investigate any particular issue further. Indeed, Archyfield did respond in

¹¹⁷ [Archyfield submissions paragraph 61](#)

writing to the addendum within the statutory consultation period. It is not clear what interference Archyfield suggests there has been or might be with its individual rights as a consequence of the submission of the addendum. For the same reasons, we do not consider there was any failure to provide early and effective opportunities to participate in the environmental decision-making procedures as required by the law on environmental impact assessment.

6.99 Archyfield had raised a concern that Network Rail's separation of the consenting for the sub-station, driver accommodation and sprinkler system meant that there was no certainty about their being consented, and without such certainty there was a question as to the project's viability. We do not regard certainty about project viability to be necessary to granting the development consent or even to granting authority for compulsory purchase of land. At the stage when development consent is sought there is often some uncertainty as to whether such projects will in fact go ahead. In any event, the evidence provided by Network Rail persuades us that the development will proceed.

Clydesdale Bank PLC

6.100 We note that the bank's advisors have explained that the issues raised in the objection have now been resolved following further discussion with Network Rail, albeit the objection has not been formally withdrawn. In these circumstances, we consider the non-withdrawal of the objection to be no more than an oversight of no great significance, as there appear to be no issues remaining between the parties.

Paul Pagliari

6.101 Mr Pagliari's concerns relate to vehicular access by private car from the west via West George Street. Network Rail is the promoting body for the TAWS Order for the redevelopment of Queen Street Station and it is responsible for publicity not Glasgow City Council. We have described the consultation process undertaken by Network Rail to advise interested parties about the proposed development above. We have concluded that it was wide and thorough.

6.102 Access by private cars via West George Street is already controlled by the existing bus gate for much of the day, meaning that private vehicles cannot use this route between 07:00 hours and 19:00 hours. The Order would not change this arrangement. During the demolition and construction period, West George Street would be closed for a relatively short period of time.

6.103 When the road is closed Network Rail acknowledges that there would be an impact on private vehicular access after 19:00 hours and before 07:00 hours each day. However, we consider that during this period of time there would be alternative routes available for local access. As Network Rail points out, these are the routes that must already be used during the hours that the bus gate is in operation.

6.104 Consequently, we agree with the submissions made by Network Rail that the TAWS Order application has minimal impact on the existing arrangements for private vehicular access in the city centre.

Purewal Properties

6.105 We note the extensive discussions Network Rail has had with Purewal in an attempt to advise and reassure them about the impact of the proposed development on their properties in Upper Dundas Street¹¹⁸¹¹⁹. We see that Network Rail has offered to provide Purewal with continuing consultation throughout the project; support through the community relations helpline, 24 hours a day, 7 days a week; and monthly meetings/site visits with regular programme updates.

6.106 Recognising that there would be cranes operating on Dundas Street Upper which may affect the operation of the road for temporary periods of time, Network Rail has offered Purewal advance notice of these activities being undertaken. Network Rail has also provided further information regarding how the new station building would interface with Purewal's buildings. We note that Network Rail has drawn up a draft agreement with Purewal (as it did for other objectors whose objections were subsequently withdrawn) but as it has been unable to reach final agreement the agreement (which we have not seen) remains as a draft.

6.107 It is inevitable that a project of the scale proposed will have some impact on the properties in Upper Dundas Street. However, in the circumstances outlined above and from the evidence given we are satisfied that Network Rail has done and will continue to do its utmost to minimise disruption to Purewal and its tenants.

Environmental statement addendum

6.108 Transport Scotland by letter dated 20 May 2016 asked Network Rail to verify the assumption at section 5.6.7 of the environmental statement addendum that the need for assessing any significant effects caused to station users by Phase 2 of the Buchanan Galleries redevelopment will have been addressed in the decision making process on planning application 14/02554/DC, and that relevant mitigation will be implemented as a condition of that permission. Transport Scotland raised the concern that, since the North Hanover Street station parking area would not be available following commencement of construction of Phase 2 of the Buchanan Galleries project, it was not clear that impact to station users had been assessed and relevant mitigation implemented during construction of that phase, including disabled set-down and parking facilities, drop-off, taxi rank facilities and bicycle parking spaces.

6.109 In response, Network Rail has produced a copy of the conditions attached to planning permission in principle for the Buchanan Galleries proposals and to the subsequent approval of matters specified in the conditions. These show that further details are required to be submitted.

6.110 We have not seen any approved details of temporary or permanent passenger facilities for the Buchanan Galleries redevelopment. However, since that development is proposed to commence ten months after the Queen Street Station redevelopment is complete, the question of availability of temporary facilities in the course of construction of Buchanan Galleries is not a matter that requires to be dealt with in determining the application for the TAWS Order.

¹¹⁸ [Email dated 8 May 2016](#)

¹¹⁹ [Email dated 2 June 2016](#)

The application for deemed planning permission

6.111 Section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended) is entitled 'Development with government authorisation'. Section 57(2A) states:

On making an order under section 1 of the Transport and Works (Scotland) Act 2007 which includes provision for development, the Scottish Ministers may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

6.112 Rule 8(6) of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 states:

(6) Where the applicant seeks a direction from the Scottish Ministers under section 57(2A) of the Town and Country Planning (Scotland) Act 1997 that planning permission shall be deemed to be granted for the development provided for in the proposed order, the applicant shall submit with the application—

- (a) a request in writing specifying the development for which the direction for such permission is sought;
- (b) a statement of any proposed planning conditions;
- (c) a statement of any matters which are intended to be reserved for subsequent approval by the planning authority; and
- (d) in respect of those matters not intended to be reserved for subsequent approval by the planning authority, such further documents as have not otherwise been submitted with the application and which are necessary to support the request for the direction.

6.113 The request under Rule 8(6) was revised on 15 July 2016¹²⁰. It requests that Scottish Ministers issue a direction that planning permission shall be deemed to be granted for the construction and use of

- a) the works described as the demolition and construction of buildings, specified in Schedule 1 to the draft Network Rail (Glasgow Queen Street Station) Order; and
- b) the other works which are proposed to be authorised by the Order including the general ancillary works specified in Schedule 2 to the draft Order.

6.114 Network Rail's approach to drafting the Order was to provide broad powers to carry out the station redevelopment project, but describe the project only in outline. More detailed description of the project is found in the Memorandum of Aims, the environmental statement and a list of plans in schedule 1 of the request for deemed planning permission. It seems to us that any deemed planning permission as may be granted under section 57(2A) of the Town and Country Planning (Scotland) Act 1997 (as amended) should in principle reflect the project for which consultation and environmental assessment were carried out. In our view, the drafting of the request for deemed planning permission is unnecessarily complex. The reference in the first part of the request to a grant of permission for the works "specified" in Schedule 1 and Schedule 2 of the Order is not appropriate, since neither schedule is particularly specific about the nature of the works

¹²⁰ [Rule 8\(6\) application revised 15 July 2016](#)

authorised. It is also inaccurate, in that the authorisation of ancillary works by the Order is more intricate than the reference in the request to Schedule 2 alone properly captures – ancillary works would actually be authorised by Article 5, although paragraph (1) of that Article refers to the list of types of work contained in Schedule 2.

6.115 The second part of the request apparently seeks to place limits on the general request for permission in the first part by reference to plans and the area within which ancillary works may be carried out. In our view, it leaves scope for a grant of permission that goes beyond the project for which consultation and environmental assessment were carried out. Network Rail themselves have confirmed this by their suggestion that planning permission in principle may be granted that would be the equivalent of permitted development rights. Although the terms of the Ministerial Direction are not for us, we recommend below that, in considering a grant of deemed planning permission, Ministers should describe the development for which consent is granted in terms that accord with the Memorandum of Aims and the environmental statement, while referring also to the plans listed in schedule 1 of the request for deemed planning permission.

6.116 The request states that the planning permission is intended to be granted subject to matters specified in conditions set out in Schedule 2 attached to the request. Schedule 2 – Matters Specified in Conditions is split into two sections: the first set of conditions is titled ‘Deemed Planning Permission in Principle for Ancillary Works’; the second set is titled ‘Deemed Planning Permission’.

6.117 We do not consider that the distinction between deemed planning permission in principle and deemed planning permission is a meaningful one in this context. Section 57(2A) of the Town and Country Planning (Scotland) Act 1997 (as amended) refers to planning permission not planning permission in principle, which is referred to in section 59 of that Act. However, section 57(2A) does allow for a situation where the applicant would submit a statement of any matters which are intended to be reserved for subsequent approval by the planning authority. We consider that the relevant parts of the Rule 8(6) request can be interpreted as such a statement in relation to those works referred to in Schedule 2 of the draft Order and referred to in that schedule as ‘Ancillary works’. We deal with the question of environmental assessment of the ancillary works above.

6.118 Network Rail points out that sections 37(2) and 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) are not applied to a Direction under section 57(2A) of that Act. We agree. Archyild expressed concerns that Network Rail’s witness considered that in making a decision on the Order and the deemed planning permission, transport policy should take precedence over planning policy. We share those concerns and we do not consider that Network Rail is correct in this regard. The Technical Guide¹²¹ explains that “In determining an application for a TAWS Order to authorise works, and any related application for deemed planning permission, the Scottish Ministers will have regard to, amongst other things, the National Planning Framework (NPF), national and regional transport strategies and relevant national, regional and planning policies”. There is nothing in the Guide to suggest that transport policies should take precedence.

6.119 The Planning Statement¹²² accompanying the application for the Order contains a useful summary of the development plan policies that should be considered in relation to

¹²¹ [PD-26](#)

¹²² [NR-14](#)

the proposed development. National Planning Framework 3 is supportive of the proposed development. The Framework mentions EGIP and refers to the refurbishment of the main stations in Glasgow under 'Spatial priorities for change' in the section titled 'A connected place'. Scottish Planning Policy makes no specific reference to Glasgow Queen Street or EGIP. However, we consider that the redevelopment of the station accords with its two principal policies. The first of these is sustainability: Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development. The second principal policy is place making: planning should take every opportunity to create high quality places by taking a design-led approach.

6.120 The Glasgow and the Clyde Valley Strategic Development Plan, May 2012 sets out a long term Spatial Vision and related Spatial Development Strategy. The plan does not have any specific policy reference to Glasgow Queen Street Station. The Spatial Vision refers to "Enhanced strategic rail connectivity: High Speed Rail, more frequent trains and improved integrated timetabling will accelerate economic collaboration with the Edinburgh city-region and provide critical economic mass so that the two largest Scottish city-regions are competitive with equivalent city-region areas in Europe and beyond", which we consider to be supportive of the proposed development.

6.121 Glasgow City Plan 2, December 2009 is the adopted local plan. The station is designated as Transport Infrastructure under policy DEV 1, where the council will encourage proposals that continue to support an integrated and sustainable transport network, assist city regeneration and improve the environmental quality of transport facilities. The proposed development is supported by this policy.

6.122 The area occupied by Consort House and the Millennium Hotel and its extension is designated as part of an area of overlap between the Principal Retail Area (City Centre) under policy DEV 5 and Principal Office Area (City Centre) under DEV 6. In the area of overlap the policies state that offices are normally found on the upper floors of buildings with shops on the ground floor. Both policies refer to uses that are complementary to retail and office use also being encouraged, as they contribute to the vitality and viability of the city centre as a whole and extend activity outwith office hours. We consider that the redevelopment of Queen Street station and the improvement of the rail facilities would be supportive of both the retail and office uses in the city centre and, indeed the vitality and viability of the city centre more generally.

6.123 Local plan Policy DES 1 – Development Design Principles applies to all new development. In relation to the principles in the Design Context section of the policy, we consider the proposed development:

- demonstrates the highest standards of urban design which respects context, setting and local townscape character;
- relates well to infrastructure and safeguards the local historic environment;
- demonstrates an understanding of the topography of the site;
- protects important public views of landmark buildings and vistas;
- reflects high quality contemporary design, which is imaginative, innovative and sympathetic to local traditions, and which creates a strong sense of place;
- embraces the principles of sustainable design and construction (and also complies with policy DES 2: Sustainable Design and Construction); and
- embraces the principles of inclusive design.

6.124 With reference to the last principle in this section of DES 1, we consider that the proposed development would avoid conflict with all adjacent land uses, apart from the Millennium Hotel, where the operators object to the acquisition and demolition of the hotel extension. There are no issues with any of the other principles of DES 1.

6.125 In relation to DES 3 – Protecting and Enhancing the City's Historic Environment, our assessment of the effect of the proposed development on the Category A listed train shed, the Category B listed Millennium Hotel and the Glasgow Central Conservation Area is outlined above. On balance, despite the impact on the Millennium Hotel as a result of the proposal to construct a fire wall very close to the west elevation and to infill the windows on this elevation, we consider that the development accords with DES 3.

6.126 There is no conflict with any of the other City Plan 2 policies referred to in the Planning Statement: DES 6 – Public Realm and Lighting; TRANS 3 – Traffic Management and Traffic Calming; TRANS 5 – Providing for Pedestrians and Cycling in New Development; ENV 4 – Sustainable Urban Drainage Systems (SuDS); ENV 5 – Flood Prevention and Land Drainage; and ENV 15 – Energy.

6.127 The report on the examination of the Glasgow City Local Development Plan was submitted to Glasgow City Council on 17 June 2016, which means the local development plan is likely to be adopted shortly. Network Rail's Planning Statement assessed the proposed development against a number of policies in the local development plan, as follows:

- CDP 1 – The Placemaking Principle
- CDP 2 – Sustainable Spatial Strategy
- CDP 3 – Economic Development
- CDP 4 – Network of Centres
- CDP 5 – Resource Management
- CDP 8 – Water Environment
- CDP 9 – Historic Environment
- CDP 11 – Sustainable Transport

6.128 We agree with Network Rail's assessment of the proposed development against these proposed policies, apart from CDP 9, where we reach a similar conclusion as for DES 3 of City Plan 2. In relation to policy CDP 11 – Sustainable Transport, we note that the reporters recommend the addition of the following text to the Context section before the policy itself: "Network Rail has plans to redevelop Queen Street Station as part of the Edinburgh Glasgow Improvement Programme (EGIP), helping meet projected growth in passenger volumes."

6.129 Our overall conclusion in relation to national, strategic and local planning policies is that they are, for the most part, supportive of the proposed development. We do not consider that the minor conflicts we have identified (parts of City Plan 2 policies DEV 1 and DES 3 and proposed local development plan policy CDP 9) are of such great significance as to justify withholding a Direction that planning permission should be deemed to be granted for the proposed development.

6.130 Section 59 (sub-sections 1 and 3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

(1) In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

(3) In this section, “preserving”, in relation to a building, means preserving it either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and “development” includes redevelopment.

6.131 Network Rail considers that section 59 applies to a decision whether to grant planning permission and it does not, therefore, apply directly to a decision whether to make a direction under section 57(2A). Even if that is correct, it is our view that national policy and development plan policy requires us to pay special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. It is apparent from our analysis above that we consider the listed buildings adjoining the site would be preserved and their settings would be enhanced as a result of the proposed development.

6.132 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

(1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

(2) Those provisions are—

(a) the planning Acts, and

(b) Part I of the Historic Buildings and Ancient Monuments Act 1953.

6.133 We have already concluded above that the demolition of the buildings and the redevelopment of the station would enhance the character of the conservation area. We deal with Scottish Ministers policy on the historic environment below.

6.134 To avoid any doubt, we consider that the description of the development in the Direction that deemed planning permission be issued by Scottish Ministers should mirror that in the environmental statement (paragraph 2.3.1). This is as follows:

- Demolition of the Millennium Hotel 1970s extension;
- Alterations to the Georgian portion of the Millennium Hotel as the result of demolition of the hotel extension;
- Demolition of Consort House;
- Removal of the canopy over the footway in Dundas Street;
- Redevelopment of the Station concourse, south and west facades, including reconstruction and extension of station buildings;
- Improved Station entrances at Dundas Street and George Square;
- New lighting and public address systems;
- New ticket office and staff accommodation block located south of Platform 1; and
- New station toilets and lost property located beneath the new station concourse.

The application for listed building consent

6.135 On 11 September 2015 Network Rail applied to Glasgow City Council for the “removal of south and west façades, demolition of offices, minor alterations to roof and columns and the reconstruction and extension of Queen Street Station. Demolition of 1970s extension and alterations to Millennium Hotel. Demolition of Consort House and Dundas Street canopy”. The listed buildings referred to are Queen Street Station (Category A) and the Millennium Hotel (Category B). Under the description of the listed building and the proposed demolition works the application form states: “Consort House which abuts the station, and considered part of the listing by the planning authority, is to be demolished. A canopy to the west of Consort House extending over a pedestrian area on Dundas Street is to be demolished. The 1970s extension of the Millennium Hotel is also to be demolished. Within the station the office buildings on the west of the concourse will be demolished. An Outline Demolition Method Statement is included”.

6.136 Network Rail refers to *Debenhams PLC v Westminster City Council*, [1986] 3 WLR 1063 which considered the meaning of the phrase “any object or structure fixed to a building” in the definition of a listed building in section 54(9) of the Town and Country Planning Act 1971. The wording of that phrase is almost identical to that found in section 1(4) (a) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The judgement states that the word “structure” is intended to convey a limitation (that the structure is part of the listed building) to such structures as are ancillary to the listed building itself, for example the stable block of a mansion house, or the steading of a farmhouse, either fixed to the main building or within its curtilage. The concept envisaged is that of principal and accessory.

6.137 Network Rail considers that Consort House could not be seen as ancillary to the main building and, accordingly, it is not listed. Historic Environment Scotland agrees with this interpretation, although Glasgow City Council considers that Consort House is part of the listed building at Queen Street Station.

6.138 Although Consort House abuts the station building, we do not consider that it can be considered to be ancillary to it, as it is separate from the station and was used as offices for businesses not associated with the station. Therefore, we agree with Historic Environment Scotland and Network Rail that Consort House is not part of the listing of the train shed. We do not agree with the council’s position in this regard. Consequently, listed building consent is not required for the demolition of Consort House, but as an unlisted building in a conservation area, its demolition does require conservation area consent, which we deal with below.

6.139 The application for listed building consent, therefore, deals with the demolition of the Millennium Hotel extension, the canopy over the station entrance to Dundas Street, the station buildings to the west of the concourse and any works required in the interface between the train shed and the proposed development.

6.140 In determining an application for listed building consent, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states:

In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to

the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.141 We have assessed the impact of the proposed development on the listed buildings above. We consider that all of the demolition works and the uncovering and reinstatement of as many of the columns of the train shed as possible would enhance the settings of the listed buildings and the features of special architectural or historic interest of the train shed. The construction of the firewall near the west elevation of the original Millennium Hotel building and the infill of the windows on that elevation would have some detrimental impact on that listed building. However, we do not consider that work is significant in the context of the existing view of that elevation, as we explain above. Conditions could be attached to the listed building consent which would ensure that the infilling work to the windows was carried out in as sympathetic a manner as possible.

6.142 Scottish Ministers policy on listed buildings is contained in Scottish Planning Policy. We consider that the changes to the listed buildings proposed would protect the special interest of Queen Street Station and also of the original building of the Millennium Hotel, notwithstanding the proposals to infill the original windows on its west elevation (as we explain above). The layout, design, materials, scale, siting and use of the proposed development would be appropriate to the character and appearance of the listed buildings and their settings. We consider that the demolition of the Millennium Hotel extension, Consort House and the other buildings proposed to be demolished would enhance the listed buildings and their setting.

The application for conservation area consent

6.143 The application for conservation area consent was made on 11 September 2015 for the demolition of Consort House, as it is located in the Glasgow Central Conservation Area. Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that section 59(1) of the Act (see above) shall have effect in relation to buildings in conservation areas as it has effect in relation to listed buildings. We have explained Network Rail's view that section 59 does not apply in this case above. However, we consider that national and development plan policy nevertheless obliges us to consider the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Our conclusions on this issue are outlined above, where we conclude that Consort House does not make a positive contribution to the character of the conservation area.

6.144 Scottish Ministers' policy on conservation areas is also contained in Scottish Planning Policy. It is apparent from our conclusions above that we consider the proposed development would preserve and enhance the character and appearance of the conservation area. The unlisted buildings which are proposed to be demolished detract from the character and appearance of the conservation area in this location. Consequently we conclude that their demolition would have a positive effect.

Transport Policy

6.145 National Planning Framework 3 includes a table on its second page which explains where various Scottish Government national plans policies and strategies sit in relation to each other. National Planning Framework 3 and Scottish Planning Policy sit under the Government Economic Strategy and the Infrastructure Investment Plan. They are on the

same level as the National Transport Strategy. We have dealt with the national planning and historical environment policies above.

6.146 Scotland's National Transport Strategy 2006 contributes to economic growth through three key strategic outcomes:

- Improve journey times and connections, to tackle congestion and the lack of integration and connections in transport which impact on our high level objectives for economic growth, social inclusion, integration and safety;
- Reduce emissions, to tackle the issues of climate change, air quality and health improvement which impact on our high level objective for protecting the environment and improving health;
- Improve quality, accessibility and affordability, to give people a choice of public transport, where availability means better quality transport services and value for money or an alternative to the car.

6.147 Scotland's National Transport Strategy was refreshed in 2016 and restated the three strategic outcomes. As an integral part of the Edinburgh Glasgow Improvement Project, we consider that the redevelopment of Queen Street Station would help to achieve the strategic outcomes of the National Transport Strategy.

Conditions

6.148 We have provided a list of recommended conditions in Appendix 2 of this report. We have taken as our starting point the most recent list of conditions supplied by Network Rail on 15 July 2016¹²³. We set out below the substantive changes we have made. Elsewhere we have made a few minor corrections. Generally speaking the order of our suggested conditions follows that of Network Rail's version, although we have amalgamated conditions to avoid unnecessary repetition so there are fewer of them. We have also merged all of the conditions which concern aspects of the construction works with the Code of Construction Practice condition for ease of reference. The condition numbers below refer to the recommended conditions in Appendix 2, unless otherwise noted.

Deemed planning consent conditions

Advisory note: Duration of deemed planning permission

6.149 Network Rail's proposed conditions included, at condition 2, a restriction on the duration of the deemed planning permission so that the permission would lapse if not implemented within three years from the date of grant. Deemed planning permission granted under section 57(2A) of the Town and Country Planning (Scotland) Act 1997 is subject to the same provisions of that Act as planning permission granted by the Scottish Ministers under section 46. It is, therefore, subject to the provisions in section 58 on the duration of planning permission. This provides that permission will lapse on the expiration of three years beginning with the date on which permission is deemed to be granted unless the development is begun before that expiration. Therefore, no condition is necessary in this regard. We have omitted Network Rail's proposed condition 2 and have instead recommended an advisory note in respect of the section 58 rule.

¹²³ [Network Rail suggested conditions](#)

Recommended condition 2: approval of details of ancillary development

6.150 We have set out above that we do not consider the distinction that Network Rail makes between detailed planning permission and planning permission in principle is meaningful in relation to section 57(2A) of the Town and Country Planning (Scotland) Act 1997. However, section 57(2A) does allow for a situation where the applicant would submit a statement of any matters which are intended to be reserved for subsequent approval by the planning authority. The details of ancillary development permitted by the Order that are not provided in the plans listed in condition 1 are still to be approved. We have, therefore, suggested a new condition 2 that reserves these details for the approval of the council before the particular element of ancillary development involved is implemented.

Recommended condition 3: the Code of Construction Practice

6.151 The environmental impact assessment was carried out on the basis that the implementation of the measures in the Code of Construction Practice (a draft of which is provided in appendix B3 to the environmental statement) would be secured by planning conditions¹²⁴. References to the code in the environmental statement cover a number of matters for which no other provision is presently made in Network Rail's draft conditions. These include:

- regulation of hours of work (environmental statement paragraph 2.5.10, addendum paragraph 6.7.5);
- the appointment of an environmental clerk of works (environmental statement paragraph 2.5.3);
- the requirement to be placed on the contractor in respect of the environmental management system to be operated (environmental statement paragraph 2.5.4);
- the requirement to produce an environmental management plan and topical environmental management plans covering management of construction transport, noise and vibration, dust and air quality, construction waste, water, and pollution incidents (environmental statement paragraphs 2.5.5 to 2.5.7);
- the sequencing of construction works (environmental statement paragraphs 2.5.12 to 2.5.13);
- the provision of measures to minimise air quality effects (environmental statement paragraph 5.3.8 and addendum paragraph 3.6.14);
- measures to restrict disturbance or damage to built heritage, including by recording of works to be demolished or altered (environmental statement paragraph 6.8.5)
- monitoring vibration and providing suitable physical protection for the train shed's fabric (environmental statement paragraph 6.10.5);
- measures to manage and mitigate the effects of the proposed development relating to traffic and transport, particularly road closures, and so mitigate significant effects on station users, (environmental statement paragraph 7.8.1), to include a communications strategy (environmental statement paragraph 7.10.4),
- cordoning off of construction activity from station users (environmental statement table 7.9),
- ensuring best practice noise-prevention measures are used (environmental statement paragraph 8.6.1),
- control of night-time working to minimise potential effects of noise (environmental statement paragraph 8.8.1),

¹²⁴ NR-22 Environmental Statement, paragraph 2.5.1

- ensuring compliance of transport contractors with health and safety and environmental management requirements (environmental statement paragraph 9.3.7), and
- measures to mitigate the effects of demolition and construction works on townscape and visual amenity such as screening of working areas and a prohibition of advertising on hoardings (environmental statement paragraph 10.8.4).

6.152 We therefore find that key aspects of impact reduction and mitigation of the effects of the proposed development are proposed in the environmental statement to be incorporated in the code. We consider that these must be translated into clear and enforceable requirements for Network Rail.

6.153 The council does not agree with Network Rail's draft condition 30 and we have some sympathy for that position. The suggested condition effectively incorporates the whole code as presently drafted into the condition. However, the draft Code of Construction Practice provided in appendix B3 of the environmental statement is not for straightforward enforcement by the council. There are several reasons for this, as outlined in the following paragraphs.

6.154 First, provisions of the draft code are in some cases vague, and their interpretation is left to Network Rail. For instance, although working hours are set out in the code, the code also states that some activities by their nature will need to be completed outwith core hours. A list of examples (not a closed list) of such activities is provided. Even the examples are general in their terms – they include “demolitions” and “any activities that entail possession of the railway and/or roads”. It is for Network Rail's project manager to determine whether out-of-hours works are permissible. There is little or nothing in respect of the provisions on working hours that appears amenable to enforcement action by the planning authority, even if the actual hours of work were to be substantially different from the core working hours set out in the code. Yet adherence to core hours of working subject to specified exceptions is relied upon in mitigation of the noise effects of construction.

6.155 Second, many of the obligations in the code are addressed to “the contractor” since the document is drafted to define the minimum standards of construction practice required of any contractor by Network Rail (see Code of Construction Practice paragraph 1.2.1). An enforcement notice may only be served on the owner or occupier of land or a person with an interest in land, and it is questionable whether a contractor would fit any of those categories. In cases where obligations in the code are not addressed to Network Rail, it is not clear that there would be any person against whom the planning authority could enforce those obligations. A revised code would have to address the obligations to the developer, Network Rail.

6.156 Third, we agree with the council that there are matters in the draft code that are irrelevant – for instance, the list of health and safety and environmental legislation and the reference to temporary living accommodation, of which none is proposed. There are also other weaknesses in its drafting – for instance a failure to define terms where this was apparently intended by the template used, and a use of undefined abbreviations. Any finalised code ought to be written in plain language that can be understood by an informed member of the public.

6.157 Fourth, Network Rail's draft condition itself does not recognise correctly the status of the draft code. It states that it is presently “a live document” and will be revised in the light

of various factors including legislative change and continuing discussion with Glasgow City Council. Network Rail's suggested condition however makes no provision for revision or updating or approval of such changes by the council but simply requires that the code is to be implemented.

6.158 There are some stipulations within the draft code for approval of at least some of its provisions by the council (for instance at paragraph 2.6.1 to 2.6.2 of the draft code). However, there is not a consistent approach. Contrast paragraph 2.6.1, which requires council approval of the environmental management plan with paragraph 4.3.2, which merely requires consultation with the council on the construction traffic management plan, which is an element of the environmental management plan.

6.159 As set out above, exceptions from working hours are left essentially to the discretion of Network Rail's project manager. We do not consider that this is satisfactory. We appreciate it is necessary to wait until the contractor is appointed to finalise the details of the code, such as on the construction process and detailed mitigation measures. It may also be necessary to have a degree of flexibility to allow some variation during construction. However, in order to secure proposed mitigation there requires to be some formality to the approval of the code and any future variation, as well as to place a limit on future variation reflecting the code's purpose of securing mitigation measures identified in the environmental impact assessment. The provisions proposed by Network Rail would simply make the code unenforceable. Signing off the code before commencement of development should be a matter for the council as planning authority. Any revisions to the code should be made under the council's supervision.

6.160 We do not agree with the council that all matters other than noise and vibration and air quality are either already dealt with by other conditions or in other legislation. While in some areas, there may be general environmental health law on which the council might fall back if a nuisance arose (for instance, unacceptable dust, vermin, light pollution, or noise arising from the development), planning has a role in identifying specific measures in advance that are to be taken to prevent nuisance arising. In this case, since article 40 of the Order would limit the availability of remedies for statutory nuisances, it is important that appropriate controls are applied in advance by planning condition.

6.161 We consider that provision does need to be made by condition for matters including:

- appointment of an environmental clerk of works;
- sustainability of construction practice;
- working hours;
- community liaison (including liaison with neighbours likely to be affected by impacts of construction such as the Millennium Hotel);
- measures to restrict impact on visual amenity;
- site waste management;
- noise and vibration monitoring and mitigation;
- dust and air quality monitoring and mitigation;
- measures for pest control;
- measures to prevent light pollution;
- measures to ensure public footpaths past or through the construction site are properly lit;

- measures to identify and deal with contaminated land, pollution prevention and control, including protection of surface and groundwater and procedures for dealing with pollution incidents;
- protection of undiscovered archaeological features; and
- measures to record features of historic buildings demolished.

In our view, this provision is most conveniently made by approval before commencement of development of a single document – a code of construction practice – rather than a series of individual documents.

6.162 We also consider that there are a number of other conditions in Network Rail's suggested list that cover aspects of the construction phase of the proposed development. We have deleted these separate conditions but included the requirements they contain in the revised Code of Construction Practice condition to make it easier to refer to all aspects of the construction phase of the development. Conditions which have now been included in the recommended condition 3 include Network Rail's draft conditions 13 (Traffic Management Plan), 14 (demolition works), 16 (contamination), 22, (temporary barricades), 23 (wheel washing), and part of 27 (lighting during construction).

6.163 Notwithstanding what we have said as regards the drafting of the code and its enforceability, we are content that in most respects the substantive measures proposed in the code provide appropriate mitigation to the effects of construction. This is subject to our comments on the specific concerns Archyfield has raised about the substance of the code, which are set out below.

6.164 We agree with Archyfield that there should be greater clarity in the rules by which construction work outwith normal working hours would be allowed. This might be done by providing exceptions for certain phases of the development or certain aspects of work approved in the code or by including a mechanism for subsequent specific approval of works outwith hours or both. It does not appear to us that the relatively limited requirement for railway possessions in course of the construction programme, which in any case are likely to be relatively predictable, can justify Network Rail's project manager retaining discretion over what works might be allowed out of hours, even subject to the considerations proposed by Network Rail.

6.165 For the most part, the details of the rules on working hours can be left for approval by the council, having regard to what has been assessed in the environmental statement. Although Archyfield suggested a specific restriction being imposed on heavy demolition at night, we have explained above that we do not find it necessary to recommend such a further specific restriction.

6.166 We also agree with Archyfield that a period of notice should be given to those affected by out-of-hours work, where reasonably practicable, and that this should be incorporated in the community and public liaison strategy. We consider that the period of notice and the exceptions to the notice requirement can be left for council approval of the final code, while having regard to the provisions of paragraph 5.4 of the draft code requiring two weeks' notice to the council and occupiers of noise sensitive properties of particularly noisy scheduled work, and for notice of emergency work to be given as soon as reasonably practicable.

6.167 Archyfield is correct that paragraph 5.1 of the draft Code of Construction Practice does not refer to specific noise limit values. The draft code (paragraph 5.7 and table 3) does describe noise limits at which off-site noise insulation measures must be installed taken to reduce noise immissions for residential buildings and schools and colleges. Insulation values are not expressly set for hotels generally or for the Millennium Hotel in particular, even though it appears Network Rail has indicated that the residential values in table 3 of the draft code of construction practice are intended as the limit for the Millennium Hotel. Since it cannot be certain that insulation would be installed (not least since it would require listed building consent, for which no application has yet been made), we take into account in reaching our recommendations the possibility that the hotel would be exposed to significant unmitigated noise effects which, although temporary, would last for a significant period of time.

6.168 Archyfield argues that lower values ought to be provided as noise limits in line with those usually imposed under section 61 of the Control of Pollution Act 1974. There is nothing in that Act that would make lower limits a legal requirement, and we have not seen any suggestion in the guidance that such lower noise limits are to be imposed in every case. The draft Code of Construction Practice (paragraph 5.4) requires neighbour notification for noisy works. The specific trigger levels can be left for approval as part of the final code. The draft code otherwise would in any case commit Network Rail to keeping noise as low as reasonably practicable, and that is the standard they would be held to. However, we also note that the grant of the order does not lift the controls of construction sites under sections 60 and 61 of the Control of Pollution Act 1974 (and Network Rail has stated that it would apply for consent under section 61). We take this into account in reaching our recommendations.

6.169 Archyfield is also correct, in our view, that the requirement for dust and air quality monitoring to be carried out in accordance with best practice guidance should not be subject to the qualification that it must be reasonably practicable, since such guidance would undoubtedly take account of practicability. However, we regard this as a matter of detail that can be dealt with in approval of the final version of the code.

6.170 In the condition we have proposed, it is a matter for the council to agree a code that is in a suitable form that can be enforced. Although this is not necessarily a straightforward task for the council, it is not unusual for planning authorities to undertake such tasks. Very similar conditions are routinely attached to planning permissions for wind farms, for example. We find no reason to believe that compliance with a Code of Construction Practice approved by the council and containing measures to address the matters we have set out cannot be properly monitored and enforced by the council.

6.171 Specific conditions on noise and vibration and on air quality were proposed by the council instead of requiring a comprehensive Code of Construction Practice. These include a requirement for surveys to be carried out to demonstrate the impact of the proposed development and require details of mitigation measures to be specified for approval. Such surveys would not be necessary, since the council does not criticise the chapters of the environmental statement in which both significant effects and mitigation measures in respect of these matters are identified. The task of conditions is to translate the identified mitigation measures into requirements of the consent, so far as is necessary taking account of other regulatory regimes. In relation to consultation, the council is entitled to consult who it wishes before approving the code.

Recommended condition 3(e): Sequencing of the construction programme

6.172 We accept that Archyfield has an interest in receiving some advance notice of the construction programme. Its proposed condition sought three months' notice of the programme itself and also three months' notice of any change. Archyfield did not supply evidence to demonstrate why a period of three months was required. Its proposal does not allow for the programming of emergency works or minor adjustments to the construction programme. Overall, we believe it would be likely to impose inflexibility on the construction project.

6.173 Archyfield is to have at least two weeks' advance notice of noisy works under the draft Code of Construction Practice. Archyfield has not objected to the 28-day notice period under article 19 of the Order for Network Rail to take temporary possession of plots 2A, 2B and 2C. In view of this, we consider that a requirement for three months' notice for any change to the construction programme would be likely to have an effect on the progress of works disproportionate to any benefit to Archyfield. We have, however, included an express requirement for an indicative construction programme to be submitted before commencement of development. Thereafter, any changes would be intimated as required through the community liaison scheme approved as part of the code of construction practice.

Recommended condition 3(f): Roads, Traffic Management and Servicing Plan

6.174 Network Rail took the position that no provision in conditions was required in respect of the matters covered by sections of the Roads (Scotland) Act 1984 disapplied by the Order. We disagree. Given that the statutory controls were imposed in the public interest, we consider it is appropriate for the Order to disapply those controls only on the basis that it is plain in advance how the development is to be regulated as regards the matters to which the statute would otherwise apply.

6.175 We do not suggest conditions should re-impose the same controls as were disapplied by effect of the Order. However, we believe it is appropriate that Network Rail should be required to set out the circumstances in which it would undertake works and excavations in public roads, the condition in which it would leave public roads following works or excavations, and measures it would take to prevent dangers arising to road users as a consequence of works in public roads (including as a consequence of ancillary activities such as deposit of building materials or placement of skips or other obstructions), and that the council should have the opportunity to consider and approve these matters.

6.176 It should be noted that this condition also contains the requirement to indicate how the proposed works would affect the access to Buchanan Street subway station and to submit details of the servicing arrangements for commercial properties in the vicinity of the site, including the Millennium Hotel.

Recommended condition 15: design of the western façade of the Millennium Hotel

6.177 In the light of evidence that infilling of windows in the hotel's western façade was necessary to provide fire separation of the station from the hotel, we have recommended approval of Network Rail's proposal to undertake these works. However, we also recommend approval of condition 15 to allow for alternative proposals to come forward that would secure fire separation without requiring the infilling of the windows. If such an

approach proved possible (and we understand that there may have been some progress on it since the conclusion of the inquiry), it would have beneficial effects both on the character and appearance of the listed building and also in allowing an internal rearrangement of the hotel so that more bedrooms could be retained than if the windows were infilled.

6.178 Although Archyfield argued that a condition should be imposed requiring a solution to be brought forward that did not involve infilling the hotel's windows, we do not recommend adopting such a condition. If no such solution can be found, such a condition would prevent the completion of a development which is in the public interest.

Other conditions: mitigation measures required such that impacts are no worse than assessed

6.179 Network Rail proposed a condition that would impose a general requirement that mitigation measures are to be introduced such that environmental impacts are no worse than those assessed in the environmental statement. Circular 4/1998 on the use of conditions in planning permission requires that conditions should be precise and enforceable. We do not consider that Network Rail's suggested condition meets these tests. Furthermore, including such a condition would suggest that the proposed development might not be carried out in accordance with its description in the environmental impact assessment or the description of the main measures to avoid, reduce or remedy major adverse environmental effects required to be included in the Scottish Ministers' decision notice. While it would be possible to apply for non-material variation of the proposed development after it was approved, the condition proposed would appear to suggest a more radical flexibility in these matters than we consider it would be appropriate for Scottish Ministers to permit.

6.180 We are also confident that the mitigation measures envisaged in the environmental assessment can be secured insofar as is necessary in other more precise conditions, including the condition requiring submission for approval and subsequent implementation of a Code of Construction Practice. Therefore, the general condition proposed is unnecessary and we have not included it in the recommended list of conditions in Appendix 2.

Conservation area consent conditions

6.181 We do not recommend any changes to the conservation area consent conditions suggested by Network Rail.

Listed building consent conditions

6.182 We have recommended the conditions proposed by Network Rail with one change: we have incorporated in condition 7 Archyfield's suggestion for the planning authority to consult the Millennium Hotel's owner on the finish of the Georgian building's west façade before approving the details submitted by Network Rail.

6.183 For the same reasons as we rejected the proposed change to condition 15 of the deemed planning permission, we have rejected the council's and Archyfield's proposal that condition 11, permitting submission of an alternative façade design and fire strategy, should be amended to a requirement to submit such alternatives. We also do not agree a condition should be added requiring the existing original windows to be retained, since this also would frustrate implementation of the submitted design. To avoid any doubt, we have

included a condition making it clear that the listed building consent does not include Consort House.

Changes to the Order

6.184 We have recommended some changes to the Order as a result of our conclusions above. The Order containing the recommended changes is found at Appendix 4, as is the full explanation for making the changes. In brief:

- We have sought to ensure the authorisation of works is limited to the project for the redevelopment of Queen Street station, and does not authorise works that fall with the ambit of planning control subsequent to that project. We reject Network Rail's submission¹²⁵ that the Order ought to support a grant of planning permission in principle that would be the "equivalent" of permitted development rights that Network Rail claims it would otherwise have had if it had sought consent for the development by private Act of Parliament. There was no reference in the consultation or in the environmental assessment or even in the explanatory note to the draft Order to a grant of consent for works of the type suggested by Network Rail subsequent to the station's redevelopment. Although Network Rail's submission was based partly on an interpretation of wording in its draft Order that was present in the consultation draft, such an interpretation is not plain on the face of the Order, nor was it suggested in any evidence that Network Rail had considered such an interpretation possible until it made its submission on the inquiry's last day. Rather, the possibility of making such an interpretation appears to us to be the consequence of the particular drafting of the Order, which it is appropriate for Ministers now to remedy;
- We have recommended changes to ensure assessment of significant environmental effects that may emerge from details submitted for approval under conditions of deemed planning permission before all or the relevant part of the development is commenced. This is discussed in more detail above;
- We have made recommendations that the term "the completion of authorised works" should be defined. It is used as the commencement of a number of time periods in the Order and, without definition of the term, it would not be clear when those time periods commence. We have also recommended consequential amendments, including the exclusion of safeguarding works authorised by Article 14 from the definition of the term "authorised works";
- We have not been given sufficient explanation of the reason for including in Article 5 consent for ancillary works "within the land adjoining plot no.1 which is the part of the land shaded grey on sheet no. 4 of the Order plans that is outwith the Order limits". An amendment to include the reference to this land was added after the conclusion of the inquiry. Archyild objects to it because the land abuts the hotel, it is not clear what is proposed to be permitted and there was no opportunity to put any question about it at the inquiry. In the absence of an explanation as to how this land relates to the proposed development, we recommend that it is not included; and

¹²⁵ [Note by Alison Gorlov on ancillary works powers – planning permission and environmental assessment](#); annex 2 of Network Rail's [Commentary on discussions on, and amendments to, conditions since the hearing of 25 May 2016](#)

- We have recommended various other mainly minor corrections.

Overall conclusions

6.185 In relation to the exercise of compulsory purchase powers, the technical guide to TAWS Orders states that before confirming such powers, the Scottish Ministers will wish to be satisfied that there is a compelling case in the public interest for taking away a person's land or rights in land, and that all the land in question is required for the scheme.

6.186 Scottish Ministers policy in Circular 6/2011 Compulsory Purchase Orders also applies to TAWS Orders. Relevant extracts follow:

- [compulsory purchase powers] allow various organisations to acquire land without the owner's permission, where there is a strong enough case for this in the public interest (paragraph 1);
- the authority should be satisfied that the purposes for which it is making a compulsory purchase order justify interfering with the rights of the people affected (paragraph 9);
- in deciding whether to confirm a compulsory purchase order Scottish Ministers will weigh up the public benefit in the authority's proposals against the interests of the people affected (paragraph 10);
- the authority should assess whether there is a suitable alternative way for it to realise its aims. It should also properly consider whether any alternative proposals put forward by other people would be appropriate (paragraph 11);
- the authority should properly assess the public benefit in its proposals and the impact on the people affected (paragraph 13); and
- compulsory purchase will not breach the European Convention on Human Rights where it is authorised by law, is proportionate and where it can be demonstrated to be in the public interest. This reinforces the requirement that the authority should use compulsory purchase only where it is a proportionate response in the circumstances and there is a strong enough case for this in the public interest (paragraph 17).

6.187 In this case we conclude that:

- there is a strong public interest in the redevelopment of Queen Street Station as part of the Edinburgh Glasgow Improvement Project;
- the proposed development is supported by Scottish Ministers' planning, historical environment and transport policies and by development plan policies;
- acquisition and demolition of the Millennium Hotel extension is necessary for railway safety reasons and to obtain a station concourse large enough for the predicted increase in the numbers of rail passengers;

- the alternative proposals suggested by Archyfield involving the retention of the hotel extension are not credible;
- while we acknowledge the profound impact on the Millennium Hotel, and we reiterate here our sincere regret about the very real personal impact on those people who would be affected, overall the concerns expressed by Archyfield are not significant enough to outweigh the strong public interest in the redevelopment of Queen Street Station in the manner proposed;
- the concerns expressed by other objectors also do not outweigh the strong public interest in the redevelopment of Queen Street Station;
- in relation to the application for listed building consent, we have concluded that the listed buildings and their settings would be preserved; and
- in relation to the conservation area consent application, we have concluded that the proposed development (including the demolition works) would have a positive effect on the character of the conservation area.

6.188 For the reasons outlined in the preceding paragraphs in this chapter, we conclude that the works are necessary and have been clearly justified in the public interest. Consequently, we conclude that the Order should be made and deemed planning permission, listed building consent and conservation area consent should be granted for the scheme.

Recommendations

6.189 For the reasons given above we recommend:

1. that the Network Rail (Glasgow Queen Street Station) Order be made, subject to the amendments detailed in Appendix 4;
2. that a Direction be issued stating that planning permission be deemed to be granted for the works as described in the Order, in the environmental statement and on the detailed drawings and statements accompanying the request for planning permission, subject to the conditions and advisory note set out in Appendix 2;
3. that listed building consent be granted for the works as described in the application for listed building consent dated 11 September 2015 and on the detailed drawings and statements accompanying the application, subject to the conditions set out in Appendix 2 (deleting the reference to Consort House, which is dealt with in the application for conservation area consent); and
4. that conservation area consent be granted for the works as described in the application for conservation area consent dated 11 September 2015 and on the detailed drawings and statements accompanying the application, subject to the conditions set out in Appendix 2.

Karen Heywood
Assistant Chief Reporter

Robert Seaton
Reporter

APPENDIX 1 – DOCUMENTS

Network Rail List of Documents

Application documents

NR-1	Signed application letter
NR-2	Draft Order
NR-2A	Updated draft Order
NR-3	Explanatory Memorandum
NR-4	Statement and memorandum of legislative competence
NR-5	Order plans (with new sheet 2A)
NR-6	Book of reference
NR-7	Report summarising consultations undertaken
NR-8	Memorandum of Aims
NR-9	Lists of consents, etc., sought or obtained
NR-10	Estimate of costs of carrying out the works
NR-11	Proposals for funding the cost of implementing the proposed Order
NR-12	Confirmation of compliance with rule 3(3)
NR-13	Request for planning permission under Rule 8(6) with drawings:

Deemed planning consent application drawings

NR-13/1	Z0(PL)AP001 - Site plan
NR-13/2	Z0(PL)AP002 - Application boundary
NR-13/3	Z0(PL)AP005 - Plan for ancillary works
NR-13/4	Z0(PL)AE020 - Context elevations as existing
NR-13/5	Z0(PL)AE021 - South elevation as existing
NR-13/6	Z0(PL)AE022 - West elevation as existing
NR-13/7	Z0(PL)AS010 - Section C-C as existing
NR-13/8	Z0(PL)AP003 - Proposed alterations/interfaces
NR-13/9	Z0(PL)AP004 - Proposed demolition – Plan
NR-13/10	Z0(PL)AE023 - Proposed demolition – South elevation
NR-13/11	Z0(PL)AE024 - Proposed demolition – West elevation
NR-13/12	Z0(PL)AP100 - Basement as proposed
NR-13/13	Z0(PL)AP101 – Lower Ground floor as proposed
NR-13/14	Z0(PL)AP102 – Ground floor as proposed
NR-13/15	Z0(PL)AP103 - Upper ground as proposed
NR-13/16	Z0(PL)AP104 - First floor as proposed
NR-13/17	Z0(PL)AP105 - Second floor as proposed
NR-13/18	Not used
NR-13/19	Z0(PL)AS120 - Sections A-A and B-B as proposed
NR-13/20	Z0(PL)AS121 - Sections C-C and D-D as proposed
NR-13/21	Z0(PL)AS122 - Section E-E as proposed
NR-13/22	Z0(PL)AE130 - Context elevations as proposed
NR-13/23	Z0(PL)AE135 - West elevation as proposed
NR-13/24	Z0(PL)AE136 - South elevation as proposed
NR-13/25	Z0(PL)AE450 - Internal elevation 01
NR-13/26	Z0(PL)AE452 - Internal elevation 02
NR-13/27	Z0(PL)AE455 - Internal elevation 03

NR-13/28	Z0(PL)AP119 - Roof plan as proposed
NR-14	Planning statement
NR-15	Code of construction practice
NR-16	Design and access statement
NR-17	Heritage statement
NR-18	Drainage strategy
NR-20	Transport statement
NR-21	Framework traffic management plan
NR-22	Environmental statement
NR-23	Non-technical summary
NR-24	Screening decision

Listed Buildings

NR-25	Listed building consent application drawings and documents
NR-25/1	Z0(PL)AP001 - Site Plan
NR-25/2	Z0(PL)AP002 - Application Boundary
NR-25/3	Z0(PL)AE020 - Context Elevations as Existing
NR-25/4	Z0(PL)AE021 - South Elevation as Existing
NR-25/5	Z0(PL)AE022 - West Elevation as Existing
NR-25/6	Z0(PL)AS010 - Section C-C as Existing
NR-25/7	Z0(PL)AP003 - Proposed Alterations / Interfaces
NR-25/8	Z0(PL)AP004 - Proposed Demolition - Plan
NR-25/9	Z0(PL)AE023 - Proposed Demolition - South Elevation
NR-25/10	Z0(PL)AE024 - Proposed Demolition - West Elevation
NR-25/11	Z0(PL)AP100 - Basement as Proposed
NR-25/12	Z0(PL)AP101 - Lower Ground as Proposed
NR-25/13	Z0(PL)AP102 - Ground Floor as Proposed
NR-25/14	Z0(PL)AP103 - Upper Ground as Proposed
NR-25/15	Z0(PL)AP104 - First Floor as Proposed
NR-25/16	Z0(PL)AP105 - Second Floor as Proposed
NR-25/17	Z0(PL)AP119 - Roof Plan as Proposed
NR-25/18	Not used
NR-25/19	Z0(PL)AS120 - Sections A-A and B-B as Proposed
NR-25/20	Z0(PL)AS121 - Sections C-C and D-D as Proposed
NR-25/21	Z0(PL)AS122 - Sections Section E-E as Proposed
NR-25/22	Z0(PL)AE130 - Context Elevations as Proposed
NR-25/23	Z0(PL)AE135 - West Elevation as Proposed
NR-25/24	Z0(PL)AE136 - South Elevation as Proposed
NR-25/25	Z0(PL)AE450 - Internal Elevation 01
NR-25/26	Z0(PL)AE452 - Internal Elevation 02
NR-25/27	Z0(PL)AE455 - Internal Elevation 03
NR-25/28	Z0(PL)AD101 - Train Shed Interface 01 as Proposed (west gutter)
NR-25/29	Z0(PL)AD102 - Train Shed Interface 02 as Proposed (south gable)
NR-25/30	Z0(PL)AD103 - Side Roof interface as Existing
NR-25/31	Z0(PL)AD104 - Side Roof Interface 01 as Proposed
NR-25/32	Z0(PL)AD105 - Side Roof Interface 02 as Proposed
NR-25/33	Z0(PL)AD107 - Section Hotel Interface as Proposed
NR-25/34	Z0(PL)AE159 - Hotel Interface as Existing
NR-25/35	Z0(PL)AE160 - Hotel Interface as Proposed
NR-25/36	Not used.

- NR-25/37 Application for listed building consent
- NR-25/38 Outline Demolition and Building Protection Method Statement
- NR-25/39 Heritage Statement

Conservation Area

NR-27 Conservation area consent application drawings and documents

- NR-27/1 Z0(PL)AP001 - Site Plan
- NR-27/2 Z0(PL)AP002 - Application Boundary
- NR-27/3 Z0(PL)AE020 - Context Elevations as Existing
- NR-27/4 Z0(PL)AE021 - South Elevation as Existing
- NR-27/5 Z0(PL)AE022 - West Elevation as Existing
- NR-27/6 Z0(PL)AS010 - Section C-C as Existing
- NR-27/7 Z0(PL)AP003 - Proposed Alterations / Interfaces
- NR-27/8 Z0(PL)AP004 - Proposed Demolition - Plan
- NR-27/9 Z0(PL)AE023 - Proposed Demolition - South Elevation
- NR-27/10 Z0(PL)AE024 - Proposed Demolition - West Elevation
- NR-27/11 Z0(PL)AP100 - Basement as Proposed
- NR-27/12 Z0(PL)AP101 - Lower Ground as Proposed
- NR-27/13 Z0(PL)AP102 - Ground Floor as Proposed
- NR-27/14 Z0(PL)AP103 - Upper Ground as Proposed
- NR-27/15 Z0(PL)AP104 - First Floor as Proposed
- NR-27/16 Z0(PL)AP105 - Second Floor as Proposed
- NR-27/17 Z0(PL)AP119 - Roof Plan as Proposed
- NR-27/18 Not used
- NR-27/19 Z0(PL)AS120 - Sections A-A and B-B as Proposed
- NR-27/20 Z0(PL)AS121 - Sections C-C and D-D as Proposed
- NR-27/21 Z0(PL)AS122 - Section E-E as Proposed
- NR-27/22 Z0(PL)AE130 - Context Elevations as Proposed
- NR-27/23 Z0(PL)AE135 - West Elevation as Proposed
- NR-27/24 Z0(PL)AE136 - South Elevation as Proposed
- NR-27/25 Z0(PL)AE450 - Internal Elevation 01
- NR-27/26 Z0(PL)AE452 - Internal Elevation 02
- NR-27/27 Z0(PL)AE455 - Internal Elevation 03
- NR-27/28 Application for conservation area consent
- NR-27/29 Consort House Archive Drawings
- NR-27/30 Heritage Statement

Further documents

- NR-28 Letter from Historic Environment Scotland to Scott Noble of Transport Scotland dated 22 October 2015
- NR-29 Minute of meeting between Network Rail and Archyfield Limited dated 17 February 2014 (erroneously headed "17 October 2014")
- NR-30 Planning Permission 14/02554/DC
- NR-31 Notice to Spirit Pub Company (Leased) Limited dated 11 September 2015
- NR-32/1 General Vesting Declaration by Glasgow City Council
- NR-32/2 Plans annexed to General Vesting Declaration by Glasgow City Council
- NR-33 Servicing strategy produced for Spirit Pub Company (Leased) Limited by JMP
- NR-34 Notice to JD Wetherspoon PLC dated 10 December 2015

NR-35 NOT USED
 NR-36 NOT USED
 NR-37 E-mail from Maclay Murray & Spens LLP (Laura Edgar) to Burness LLP (Lynsey Reid) 07/12/2015
 NR-38 E-mail from Burness LLP (Lynsey Reid) to Maclay Murray & Spens LLP (Laura Edgar) 09/12/2015
 NR-39 E-mail from Maclay Murray & Spens LLP (Kenneth McLaren) to Burness LLP (Lynsey Reid) dated 29/01/2016
 NR-40 NOT USED
 NR-41 NOT USED
 NR-42/1 Swept path analysis outbound
 NR-42/2 Swept path analysis inbound
 NR-43/1 Swept path analysis inbound (showing surrounding building)
 NR-43/2 Swept path analysis outbound (showing surrounding building)
 NR-43/3 Vehicle specification for swept path analysis
 NR-44 NOT USED
 NR-45 NOT USED
 NR-46 Spirit Objection Letter
 NR-47 E-mail from MMS to Burness dated 23 November 2015
 NR-48 E-mail from MMS to Burness dated 22 December 2015
 NR-49 NOT USED
 NR-50 E-mail from MMS to Burness dated 25 January 2016
 NR-51 NOT USED
 NR-52 E-mail from MMS to Burness dated 19 February 2016
 NR-53 Telephone note
 NR-54 E-mail from Burness to MMS dated 1 February 2016
 NR-55 E-mail from MMS to Burness dated 19 February 2016
 NR-56 NOT USED
 NR-57 E-mail from Burness to MMS dated 29 February 2016
 NR-58 NOT USED
 NR-59 E-mail from MMS to Burness dated 15 March 2016
 NR-60 Letter from MMS to Purewal dated 4 September 2015
 NR-61 Purewal Objection Letter dated 22 October 2015
 NR-62 Acknowledgement Letter to Purewal dated 28 October 2015
 NR-63 Response letter to Purewal dated 3 December 2015
 NR-64 E-mail from MMS to Montagu Evans dated 3 December 2015
 NR-65 E-mail from Mhairi Mackenzie to Montagu Evans dated 22 December 2015
 NR-66 E-mail from Montagu Evans to Mhairi Mackenzie dated 22 December 2015
 NR-67 E-mail from Mhairi Mackenzie to Montagu Evans dated 27 January 2016
 NR-68 E-mail chain between Mhairi Mackenzie and Montagu Evans
 NR-69 E-mail from Mhairi Mackenzie to Montagu Evans dated 25 February 2016
 NR-70 E-mail chain between Mhairi Mackenzie and Montagu Evans
 NR-71 Note of voicemail from Mhairi Mackenzie to Montagu Evans
 NR-72 NOT USED
 NR-73 NOT USED
 NR-74 NOT USED
 NR-75 NOT USED
 NR-76 NOT USED
 NR-77 NOT USED
 NR-78 E-mail from DPEA dated 15 March 2016
 NR-79 NOT USED

NR-80	NOT USED
NR-81	NOT USED
NR-82	Email chain between Mhairi Mackenzie and Montagu Evans
NR-83	NOT USED
NR-84	Acknowledgement of objection letter by Spirit
NR-85	Email from Mhairi Mackenzie to Alan Fitzpatrick 23 March 2016
NR-86	New Look Objection
NR-87	Note of meeting with New Look
NR-88	Scottish Power Objection
NR-89	Planning Application (14/02814/DC) [Duplicate of MH4]
NR-90	NOT USED
NR-91	NOT USED
NR-92	NOT USED
NR-93	NOT USED
NR-94	Initial Objection Letter from Clydesdale Bank
NR-95	NOT USED
NR-96	NOT USED
NR-97	Planning Application 15/00093/DC
NR-98	Planning Application 14/02813/DC
NR-99	Planning Application 14/02537/DC
NR-100	Herald Article 03 July 2015
NR-101	Kenneth Williamson CV
NR-102	Kenneth Williamson photographs
NR-103	Listing information Millennium Hotel
NR-104	Extract Map
NR-105	NOT USED
NR-106	Statement of significance for the Millennium Hotel
NR-107	Planning Summary for Conservatory
NR-108	BDP Note 190216
NR-109	HES Note 260116
NR-110	GCC Initial Objection Letter
NR-111	Archyfield Limited Initial Objection Letter
NR-112	Liebherr Crane Brochure
NR-113	Existing Platform Layout
NR-114	Key Output 1 Platform Layout
NR-115	Key Output 3 Platform Layout
NR-116	Photograph of tunnel throat
NR-117	Note of meeting NR/TAWS unit 15 December 2014
NR-118	Framework Waste, Delivery and Access Strategy for Local Businesses
NR-119	Draft Waste, Delivery and Access Report for Spirit Pub Company
NR-120	Traffic Management Options – Project Note dated 16 February 2016
NR-121	Nelson Mandela Place Traffic Survey Project Note dated 1 March 2014
NR-122	Alison Gorlov note on the implementation of the Order
NR-123	EGIP Strategic Environmental Assessment
NR-124	Queen Street - Movement Strategies Assessment dated 5 December 2012
NR-125	Route Utilisation Strategy Generation Two
NR-126	NOT USED
NR-127	Note of meeting with SPEN 15/01/2016
NR-128	E-mail to Archyfield Glasgow Queen Street Station Redevelopment 10/09/2013
NR-129	NOT USED

- NR-130 Letter from Kwek Leng Beng of Millennium and Copthorne Hotels PLC to Richard Parry Jones of Network Rail dated 28 April 2014
- NR-131 Letter from David Dickson of Network Rail to Kwek Leng Beng of Millennium and Copthorne Hotels PLC dated 6 June 2014
- NR-132 Letter from Millennium & Copthorne Hotels PLC to Network Rail responding to Phase 1 Consultation dated 30 May 2014
- NR-133 E-mail from Edward Freeman of Network Rail to Andrew Ingleton of Archyfield Limited dated 13 June 2014
- NR-134 E-mail from David Ashcroft of Dartmouth Capital to Edward Freeman of Network Rail dated 13 June 2014, and E-mail from Edward Freeman of Network Rail to David Ashcroft of Dartmouth Capital dated 16 June 2014
- NR-135 E-mail from David Ashcroft of Dartmouth Capital to Edward Freeman of Network Rail dated 24 July 2014
- NR-136 Letter from Network Rail to Archyfield Limited dated 19 August 2014
- NR-137 Archyfield alternative proposals presentation
- NR-138 Letter from Muir Smith Evans to Edinburgh Glasgow Improvement Programme dated 19 December 2014
- NR-139 E-mail from David Ashcroft of Dartmouth Capital to Aidan Grisewood dated 13 January 2015
- NR-140 E-mail from Martin McKinlay of Transport Scotland to David Ashcroft of Dartmouth Capital dated 14 January 2014
- NR-141 Letter from Network Rail to Dartmouth Capital dated 20 January 2015
- NR-142 Note of Meeting between Clydesdale Bank and Network Rail dated 12 November 2015
- NR-143 Queen Street Passenger Forum meeting notes dated 28 March 2014, 9 May 2014, 5 June 2014, 20 June 2014, 5 September 2014, 24 October 2014, 5 December 2014, 16 January 2015, 27 February 2015, 24 April 2015 and 26 February 2016
- NR-144 Diagrams showing the effect on concourse area of retaining Consort House and Millennium Hotel's 1970s bedroom wing
- NR-145 Addendum to Environmental Statement
- NR-146 GRIP 4 Chapter 13 Movement Strategies Pedestrian Flow Modelling
- NR-147 Fly through animation of Queen Street Station
- NR-148 Movement Strategies – Normal Operation
- NR-149 Movement Strategies – Perturbed Operation
- NR-150 Plan Z0(20)BE004_01
- NR-151 Plan Z0(20)BE005_01
- NR-152 Plan Z0(20)BE006_01
- NR-153 Plan Z0(20)BP100_1
- NR-154 Plan Z0(20)BP102_03
- NR-155 Plan Z0(20)BP103_03
- NR-156 Plan Z0(20)BP104_03
- NR-157 Plan Z0(20)BS004_02
- NR-158 Presentation to Archyfield Limited dated [20] November 2012
- NR-159 Plan Z0(20)BP105_03
- NR-160 Plan showing location of 20m overrun risk zone relative to retail units and hotel extension
- NR-161 Aerial view of site
- NR-162 Buchanan Galleries Planning Permission Decision Notice 13/00103/DC
- NR-163 Glasgow Queen Street Redevelopment Information Request Spreadsheet
- NR-164 Plan showing listed buildings in the vicinity

NR-165	Plan showing the Order limits within the Glasgow Central Conservation area
NR-166	NOT USED
NR-167	Glasgow Queen Street Passenger Survey 2013
NR-168	Illustrative Headroom Clearance to 1970s Bedroom Wing
NR-169	E-mail from Burness (Lynsey Reid) to MMS (Laura Edgar) dated 23 December 2015
NR-170	Crane Reach Options Plan
NR-171	Indicative Construction Phasing Drawings
NR-172	Crane Reach Sketch Demolition 3
NR-173	NOT USED
NR-174	Komatsu High Reach Demolition Specification Brochure
NR-175	SEE PD-75
NR-176	CP5 Delivery Plan Update March 2016
NR-177	NOT USED
NR-178	E-mail from Phil Vester to Lester Hampson dated 17 June 2015
NR-179	EGIP Workshop Output Note
NR-180	EGIP TS Updated Client Requirements
NR-181	ORR Overview of the Rail Industry
NR-182	Strategic Business Plan for Scotland
NR-183	Network Rail Licence
NR-184	LS Buchanan Financial Statement Y/E 31/03/2015
NR-185	160329 Planning boundary diagrams Rev 02
NR-186	Disposition by Glasgow City Council to Network Rail (referred to as document NR-33 in NR's Responses)
NR-187	Keith Brown Statement dated 4 July 2012
NR-188	London to West Midlands EIA Scope Methodology (extract)
NR-189	Parliamentary Statement from Stewart Stevenson 27/09/2007
NR-190	Ian Emslie Table
NR-191	Letter from LS Buchanan to Phil Verster dated 18 February 2016
NR-192	NOT USED
NR-193	Drawing number Z0(PL)AP005 Rev 2
NR-194	EGIP TS Updated Client Requirements
NR-195	E-mail from Phil Verster to Lester Hampson dated 3 July 2015
NR-196	Note of required amendments to Order
NR-197	Millennium Hotel Noise Level Survey 6 May 2016
NR-198	Ancillary works powers – planning permission and environmental assessment, Note by Alison Gorlov, 23 May 2016

Policy Documents

PD-1	Scotland's National Transport Strategy http://www.scotland.gov.uk/Resource/Doc/157751/0042649.pdf
PD-2	Scotland's Railways http://www.scotland.gov.uk/Resource/Doc/157764/0042650.pdf
PD-3	Accessible Train and Station Design for Disabled People: A Code of Practice http://www.dft.gov.uk/transportforyou/access/rail/railstations/accessiblestationdesigns/cop.pdf
PD-4	Office of Road and Rail, Estimates of Station Usage 2013-14 http://orr.gov.uk/data/assets/pdf_file/0017/15362/station-usage-2013-14.pdf
PD-5	Scottish Planning Policy June 2014

- <http://www.gov.scot/Resource/0045/00453827.pdf> (Current version supersedes previous PD-5)
- PD-6 NOT USED [Document previously listed not referred to in NR SoC]
- PD-7 NOT USED [Document previously listed not referred to in NR SoC]
- PD-8 NOT USED [Document previously listed not referred to in NR SoC]
- PD-9 GI/GN7616 Guidance on Interface between Station Platforms, Track and Trains, Issue Two: March 2014, RSSB
- PD-10 NOT USED [Document previously listed not referred to in NR SoC]
- PD-12 NOT USED [Document previously listed not referred to in NR SoC]
- PD-13 NOT USED [Document previously listed not referred to in NR SoC]
- PD-14 NOT USED [Document previously listed not referred to in NR SoC]
- PD-15 NOT USED [Document previously listed not referred to in NR SoC]
- PD-18 NOT USED [Document previously listed not referred to in NR SoC]
- PD-19 NOT USED [Document previously listed not referred to in NR SoC]
- PD-20 Network Rail Route Utilisation Study (Scotland) 2011
<http://www.networkrail.co.uk/browse%20documents/rus%20documents/route%20utilisation%20strategies/rus%20generation%202/scotland/scottishrusbook.pdf>
- PD-21 Network Rail – Station Capacity Assessment Guidance (May 2011)
<https://www.dpea.scotland.gov.uk/Document.aspx?id=334360>
- PD-22 Edinburgh – Glasgow Improvement Programme, Outline Business Case, October 2011, EY
<https://www.dpea.scotland.gov.uk/Document.aspx?id=334360>
- PD-23 Edinburgh – Glasgow Improvement Programme, Final Business Case, October 2013, EY
http://www.transportscotland.gov.uk/system/files/uploaded_content/documents/projects/Rail/EGIP%20FBC%20Publically%20available%20version_27012014.pdf
- PD-24 Strategic Transport Projects Review, Edinburgh – Glasgow Rail Improvements, Transport Scotland, October 2007
<https://www.dpea.scotland.gov.uk/Document.aspx?id=334363>
- PD-25 NOT USED
- PD-26 Scottish Government Technical Guide to Transport and Works (Scotland) Act 2007
<http://www.gov.scot/Resource/Doc/207985/0055172.pdf>
- PD-27 Managing Public Money – HM Treasury , July 2013 with annexes revised as at August 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_-jan15.pdf
- PD-28 Planning Circular 6/2011: Compulsory Purchase Orders
<http://www.gov.scot/Resource/Doc/360779/0122028.pdf>
- PD-29 Compulsory Purchase and Completion - Compulsory Purchase Procedure, October 2004
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11487/14763_9.pdf
- PD-30 Compulsory Purchase and Compensation – Compensation to Business Owners and Occupiers, October 2004
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11488/14764_2.pdf
- PD-31 Compulsory Purchase and Compensation – Compensation to Agricultural Owners and Occupiers, October 2004
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11489/14764_5.pdf

- PD-32 Compulsory Purchase and Compensation – Compensation to Residential Owners and Occupiers, April 2010
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7719/147648.pdf
- PD-33 Compulsory Purchase and Compensation – Reducing the Adverse Effects of Public Development Mitigation Works, October 2004
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11490/147651.pdf
- PD-34 Governance of Railway Investment Projects (GRIP) Policy
<https://www.ihc.com/products/uk-network-rail-standards.html>
- PD-35 Glasgow City Council Adopted City Plan 2
<https://www.glasgow.gov.uk/index.aspx?articleid=16185>
- PD-36 Glasgow City Council Proposed Local Development Plan
<https://www.glasgow.gov.uk/index.aspx?articleid=16186>
- PD-37 RSSB Recommendations for the Risk Assessment of Buffer Stops, Arresting Devices and End Impact Walls (GC/RC5633)
<http://author.rssb.co.uk/rgs/standards/GCRC5633%20Iss%202.pdf>
- PD-38 Constructability_Review_Limits_of_Construction
<https://www.dpea.scotland.gov.uk/Document.aspx?id=334367>
 (Referred to in NR’s Statement of Case as document SPT1)
- PD-39 NOT USED
- PD-40 Railway Standard GI/RT7016
- PD-41 Glasgow City Council Air Quality and Planning Guidance
- PD-42 Guidance on the Assessment of Dust from Demolition and Construction
- PD-43 National Planning Framework (see PD-84)
- PD-44 NOT USED
- PD-45 Designing Streets
- PD-46 NOT USED
- PD-47 WHO Guidelines for Community Noise 1999
- PD-48 Night Noise Guidance
- PD-49 Scottish Government’s Planning Advice Note (PAN) 1/2011
- PD-50 Technical Advice Note – Assessment of Noise (TAN) 2011
- PD-51 NOT USED
- PD-52 Glasgow and the Clyde Valley Strategic Development Plan (2012)
- PD-53 NOT USED
- PD-54 NOT USED
- PD-55 BS 5228-1 (British Standards Institution, 2014a)
- PD-56 BS 5228-2 (British Standards Institution, 2014b)
- PD-57 BS 6472 (British Standards Institution, 2008)
- PD-58 BS 7385 (British Standards Institution, 1993)
- PD-59 BS ISO 4866 (British Standards Institution, 2010b)
- PD-60 BS8233 (British Standards Institution, 2014)
- PD-61 BS4142 (British Standards Institution, 2014)
- PD-62 Design Manual for Roads and Bridges
- PD-63 Calculation of Road Traffic Noise
- PD-64 Calculation of Railway Noise
- PD-65 NOT USED
- PD-66 Inoperability Unit Trans-European Conventional Rail System reference IU-NOI-11032010_TSI
- PD-67 Network Rail Company Standard Network Rail/GN/ENV/00022 “Construction Noise Mitigation through the Section 61 consent process”

PD-68	Network Rail Company Standard Network Rail/GN/ENV0023 "Best Practicable Means: Control of Noise and Vibration from Construction Operations"
PD-69	NOT USED
PD-70	NOT USED
PD-71	Department for Transport Design Standards for Accessible Railway Stations
PD-72	Glasgow Central Conservation Area Appraisal
PD-73	Memorandum of Understanding between Network Rail and Scottish Ministers
PD-74	Framework Agreement between Network Rail and Department for Transport
PD-75	Transport Scotland High Level Output Specification June 2012
PD-76	Strategic Business Plan for Scotland
PD-77	Office of Rail and Road Final Determination October 2013
PD-78	Network Rail CP5 Delivery Plan (see NR-176)
PD-79	ORR Efficient Costs Infographic
PD-80	Nichols Independent Report
PD-81	ORR Guidance on the application of Regulation 402/2013
PD-82	Transport Assessment Guidance
PD-83	NOT USED
PD-84	National Planning Framework 3
PD-85	Creating Places
PD-86	Circular 4/1998
PD-87	Guide to Scottish Statutory Instruments
PD-88	New Design in Historic Settings
PD-89	Scottish Historic Environment Policy
PD-90	Managing Change in the Historic Environment
PD-91	Circular 9 2009
PD-92	Local Built Heritage Designations
PD-93	Listing Information Queen Street Station
PD-94	Comparison of noise and vibration from percussive and bored piling
PD-95	NOT USED
PD-96	Glasgow Agglomeration - Noise Action Plan
PD-97	Cleaner Air for Scotland
PD-98	Updating and Screening Assessment for Glasgow City Council
PD-99	Buchanan Galleries Extension Planning Permission in Principle Air Quality Assessment
PD-100	2014 Air Quality Progress Report for Glasgow City Council
PD-101	National Transport Strategy Report January 2016
PD-102	Strategic Transport Projects Review 2008

Legislation

LD-1	Transport & Works (Scotland) Act 2007 (2007 asp 8) http://www.opsi.gov.uk/legislation/scotland/acts2007/pdf/asp_20070008_en.pdf
LD-2A	Transport & Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 (SSI 2007/570) http://www.oqps.gov.uk/legislation/ssi/ssi2007/draft/pdf/sdsi_9780110784915_en.pdf
LD-3	Transport & Works Scotland (Scotland) Act 2007 (Inquiries and Hearings Procedure) Rules 2007 (SSI 2007/571) http://www.opsi.gov.uk/legislation/scotland/ssi2007/pdf/ssi_20070571_en.pdf
LD-4A	Section 57 of the Town and Country Planning (Scotland) Act 1997 (1997 c.8) http://www.legislation.gov.uk/ukpga/1997/8/section/57

- LD-5A Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (1992 No.223 (s.17))
<http://www.legislation.gov.uk/uksi/1992/223/schedule/1/made>
- LD-6A Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (1997 c.9)
http://www.legislation.gov.uk/ukpga/1997/9/pdfs/ukpga_19970009_en.pdf
- LD-7A Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007. (SSI 2007/569)
<http://www.legislation.gov.uk/cy/ssi/2007/569/regulation/5/made>
- LD-8 Lands Clauses Consolidation (Scotland) Act 1845
<http://www.legislation.gov.uk/ukpga/Vict/8-9/19/contents>
- LD-9 Network Rail (Waverley Steps) Order 2010
<http://www.legislation.gov.uk/ssi/2010/188/made>
- LD-10 Airdrie – Bathgate Railway and Linked Improvements Act 2007
<http://www.legislation.gov.uk/asp/2007/19/contents>
- LD-11A Transport and Works Act 1992
<http://www.legislation.gov.uk/ukpga/1992/42/contents>
- LD-12 Edinburgh Airport Rail Link Act 2007
<http://www.legislation.gov.uk/asp/2007/16/contents>
- LD-13 Forth Crossing Act 2011
<http://www.legislation.gov.uk/asp/2011/2/contents>
- LD-14A Land Compensation (Scotland) Act 1963
<http://www.legislation.gov.uk/ukpga/1963/51/contents>
- LD-15 Town and Country Planning (Development Management Procedure) (Scotland) Reg 2013
<http://www.legislation.gov.uk/ssi/2013/155/contents/made>
- LD-16 Edinburgh Tram (Line One) Act 2006
<http://www.legislation.gov.uk/asp/2006/7/2006-05-08>
- LD-17 Edinburgh Tram (Line Two) Act 2006
<http://www.legislation.gov.uk/asp/2006/6/contents>
- LD-18 Glasgow Airport Rail Link Act 2007
http://www.legislation.gov.uk/asp/2007/1/pdfs/asp_20070001_en.pdf
- LD-19 Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004
<http://www.legislation.gov.uk/asp/2004/10/contents>
- LD-20 Waverley Railway (Scotland) Act 2006
<http://www.legislation.gov.uk/asp/2006/13/contents>
- LD-21 Environmental Protection Act 1990
<http://www.legislation.gov.uk/ukpga/1990/43/contents>
(referred to in NR's Statement of Case as document ARC5)
- LD-22 Directive 2008/50/EC(on ambient air quality and cleaner air for Europe)
- LD-23 Air Quality Standards (Scotland) Regulations 2010/204
- LD-24A Air Quality (Scotland) Regulations 2000
- LD-24B Air Quality (Scotland) Amendment Regulations 2016
- LD-25A Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations, SI 1999/1053
- LD-26 Environmental Noise (Scotland) Regulations 2006
- LD-27 Directive 2002/49/EC
- LD-28 Control of Pollution Act 1974
- LD-29 Noise Insulation (Railways and Other Guided Transport Systems) Regulation 1996
- LD-30A Building (Scotland) Regulations 2004

LD-31	Commission Implementing Regulation (EU) 402/2013 on the Common safety method for risk evaluation and assessment)
LD-31A	EU Regulation 2015 1136 amending Implementing Regulation (EU) No 402_2013 on the common safety method for risk evaluation and assessment
LD-32	Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009
LD-33A	Environmental Impact Assessment (Scotland) Regulations 1999
LD-34	William Grant & Sons Distillers Limited v The Scottish Ministers
LD-35	Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations
LD-36	Bernard Wheatcroft Ltd v SofS for the Environment, 1981
LD-37	Inverclyde DC v SofS for Scotland, Court of Session, 1982
LD-38	Walker v Aberdeen CC, 1996
LD-39	Private Legislation Procedure (Scotland) Act 1936
LD-40	Land Clauses Consolidation Act 1860
LD-41A	Land Clauses Consolidation (Scotland) Act 1845
LD-42	Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 (Repealed)
LD-42A	Interpretation and Legislative Reform (Scotland) Act 2010
LD-43A	Human Rights Act 1998
LD-44A	Building (Scotland) Act 2003
LD-45A	Title Conditions (Scotland) Act 2003
LD-46	European Convention on Human Rights
LD-47A	New Roads and Street Works Act 1991
LD-48A	Railways Clauses Consolidation (Scotland) Act 1845
LD-49A	Railways Clauses Act 1863
LD-50A	Town and Country Planning (Scotland) Act 1997
LD-51	Planning Act 2008
LD-52	Network Rail (Nuneaton North Chord) Order 2014
LD-53	London Underground (Bank Station Capacity Upgrade) Order 2015
LD-54	Hornsea One Offshore Wind Farm Order 2014

Archyfield Limited list of documents

MH1	Lease between British Railways Board, British Transport Hotels Limited and Archyfield dated 5 and 9 January 1984 and recorded in the General Register for the County of Glasgow on 27 January 1984
MH2	Millennium Hotel – Listing as Category B Building - Reference 32690
MH3	Planning Decision Notice 14/02813/DC and accompanying plans
MH4	Design Statement and Related Supporting Information for Planning Application 14/02813/DC, Hamiltons Architects, January 2015, Version 3
MH5	Planning Circular 6/2011 Compulsory Purchase Orders
MH6	Figures 1 to 10
MH7	Photos 1 to 8
MH8	Hamiltons Architects – Queen Street Station Brochure – November 2015
MH9	Handling Report for Planning Application 14/02813/DC
MH10	Overlay Drawing – Extracted from Network Rail Demolition Plan
MH11	Not Used
MH12	Access/ Interface Requirements
(a)	Ground Floor
(b)	First Floor

- (c) Second Floor
- (d) Third Floor
- MH13 West Façade Window Alterations
- MH14 Not Used
- MH15 Overlay Drawing - Extract From Network Rail Drawing Zo(PI)Ae455
- MH16 Overlay Drawing - Extract From Network Rail Drawing Zo(PI)As121
- MH17 Archyfield Illustrative Concourse Section
- MH18 Overlay Drawing - Comparison Between Proposed Concourse Section
- MH19 Overlay Drawing - Extract From Network Rail Drawing Zo(PI)Ap102
- MH20 Minutes of Meeting Glasgow Urban Design Panel dated 5 February 2015

APPENDIX 2 – SUGGESTED CONDITIONS

Conditions to be attached to the deemed planning permission

Approved plans

1. With the exception of ancillary works dealt with under condition 2, the development shall be implemented in accordance with drawing number(s):

- ZO(PL)AP001 Site Plan 07
- ZO(PL)AP002 Application Boundary 07
- ZO(PL)AE020 Context Elevations as Existing 03
- ZO(PL)AE021 South Elevation as Existing 03
- ZO(PL)AE022 West Elevation as Existing 02
- ZO(PL)AS010 Section C-C as Existing 03
- ZO(PL)AP003 Proposed Alterations / Interfaces 05
- ZO(PL)AP004 Proposed Demolition - Plan 04
- ZO(PL)AE023 Proposed Demolition - South Elevation 03
- ZO(PL)AE024 Proposed Demolition - West Elevation 03
- ZO(PL)AP100 Basement as Proposed 09
- ZO(PL)AP101 Lower Ground as Proposed 08
- ZO(PL)AP102 Ground Floor as Proposed 09
- ZO(PL)AP103 Upper Ground as Proposed 08
- ZO(PL)AP104 First Floor as Proposed 09
- ZO(PL)AP105 Second Floor as Proposed 08
- ZO(PL)AP119 Roof Plan as Proposed 09
- ZO(PL)AS120 Sections A-A and B-B as Proposed 03
- ZO(PL)AS121 Sections C-C and D-D as Proposed 05
- ZO(PL)AS122 Section E-E as Proposed 00
- ZO(PL)AE130 Context Elevations as Proposed 03
- ZO(PL)AE135 West Elevation as Proposed 05
- ZO(PL)AE136 South Elevation as Proposed 06
- ZO(PL)AE159 Hotel Interface as Existing 04
- ZO(PL)AE160 Hotel Interface as Proposed 05
- ZO(PL)AE450 Internal Elevation 01 04
- ZO(PL)AE452 Internal Elevation 02 04
- ZO(PL)AE455 Internal Elevation 03 04
- ZO(PL)AD102 Train Shed Interface 02 as Proposed (south gable) 05
- ZO(PL)AD107 Side Roof Interface 01 as Proposed 04
- ZO(PL)AG001 CGI Queen Street Station Hotel Interface as Proposed 01

as qualified by the undernoted conditions, subject to any non-material variation approved in writing by the planning authority.

Reason: to make it clear that these drawings constitute the approved development.

Matters reserved for future approval

2. Details of each particular element of the ancillary works authorised under article 5(1) or (2) of the Order, other than those provided in plans listed in condition 1, shall be submitted to and approved by the planning authority prior to the implementation of that particular element. Any ancillary works shall thereafter only be carried out in accordance with the approved details, subject to any non-material variation approved in writing by the planning authority.

Reason: to reserve to the planning authority approval of the details of ancillary works not supplied as part of the application.

Code of Construction Practice

3. The development shall not be commenced unless a Code of Construction Practice has been submitted to and approved by the planning authority. Thereafter, all works shall be carried out in accordance with the approved Code of Construction Practice. The Code of Construction Practice shall include (but shall not be limited to):

- (a) a requirement to appoint a suitably qualified environmental clerk of works throughout the period of construction activity from the commencement of development to its completion and terms of the clerk's appointment, including a duty to monitor compliance with the Code of Construction Practice and to report to the developer's nominated construction manager and to the appropriate statutory body instances of non-compliance;
- (b) measures to ensure sustainability of construction practice;
- (c) restrictions upon working hours, including specified exceptions from those restrictions for categories of work and/or means by which a specific exception from those restrictions may be approved, including any consultation required with neighbouring occupiers;
- (d) a scheme for community liaison and public information, to engage with communities affected by construction of the development and with the public, which sets out how inquiries and complaints are to be dealt with, how information is to be provided on the construction programme, how that information is to be updated if the construction programme changes, and how the public and communities affected are to be warned of the commencement of certain phases that might have particular impacts (such as particularly noisy work, work at night etc.), including the period of notice to be given in all ordinary cases, and any exceptions to the requirement to give notice;
- (e) an indicative construction programme setting out the start date and the sequencing of construction. The construction programme and any changes to it shall be intimated to the communities affected by the development and to the public by means of the community liaison scheme included under section (d) above;
- (f) a Roads, Traffic Management and Servicing Plan for the period of the demolition and construction works or other such arrangements agreed with the planning authority shall be submitted for the written approval of the planning authority prior to the commencement of works on site. The plan shall contain the following details:

- (i) how the works will affect access to the entrance to Buchanan Underground Station and the operation of the subway, with the object of minimising the length of time the Dundas Street entrance is inaccessible;
 - (ii) the proposed servicing arrangements for commercial properties on Dundas Street and on West George Street between Buchanan Street and Queen Street and the Millennium Hotel;
 - (iii) the circumstances in which works and excavations are to be carried out in public roads;
 - (iv) the condition in which public roads are to be left following works or excavations; and
 - (v) measures to prevent dangers arising to road users as a consequence of works in public roads (including as a consequence of ancillary activities such as deposit of building materials or placement of skips or other obstructions).
- (g) A method statement fully detailing how the extension to the Millennium Hotel and Consort House will be demolished;
- (h) an environmental management plan including:
- (i) measures to mitigate the impact of the construction site on visual amenity. These measures shall include details of the appearance of any temporary barricades proposed during the works and a requirement that all barricades must be painted and/or maintained in good condition and kept free of commercial advertisements;
 - (ii) a site waste management plan;
 - (iii) a scheme for monitoring and mitigation of noise and vibration during construction;
 - (iv) a scheme for monitoring and mitigation of dust and other effects on air quality during construction;
 - (v) measures to control pests at the construction site;
 - (vi) a scheme for lighting of the construction site such that light pollution is controlled and to ensure adequate and satisfactory measures to maintain street lighting levels during construction;
 - (vii) measures to protect the fabric of historic buildings to be retained;
 - (viii) a water management plan;
 - (ix) a pollution incident control plan;
 - (x) the provision of wheel washing equipment at all egress points, which shall be kept in operation during all times when vehicles are leaving the site, including a requirement that the equipment installed shall be of the grid type to ensure that once the bottom of the vehicle is cleansed of mud and other debris, this is not trailed onto the public carriageway;
 - (x) a scheme to minimise cumulative effects of construction by coordinating work or mitigation measures with the developers of 366 Cathedral Street (planning permission reference 14/02330/DC), the Buchanan Galleries extension (planning permission reference

14/02554/DC) and any other significant construction project identified nearby;

- (i) measures to ensure public footpaths past or through the construction site are properly lit;
- (j) measures to ensure contaminated land is identified and remediated, which shall include reporting the identification of contamination in writing to the planning authority within one week.
- (k) a scheme of investigation of archaeology and protection of features of archaeological importance;
- (l) measures to record features of historic buildings to be demolished or altered;
- (m) a scheme for site security and the placing of security cameras such the privacy of other premises is protected; and
- (n) a scheme for approval by the planning authority of variations to the Code of Construction Practice for the purpose of reducing disturbance or nuisance as a consequence of construction to the public or neighbours following commencement of development.

Reason: to prevent nuisance; mitigate annoyance from the effects of works; protect the amenity of the surrounding area; ensure the ground is suitable for the proposed development; prevent damage to features of historic or archaeological importance; ensure that the subway and adjacent businesses can continue to operate effectively; and to ensure that the construction works accord with the details assessed in the environmental statement.

Materials and further details of external works to the building

4. External materials shall be curtain wall glazing, bronze anodised metal cladding, limestone cladding, granite kicker. A sample panel of the typical bay detail shall be erected for the inspection of the planning authority and written approval shall be obtained prior to the commencement of construction works on site. The approved sample panel shall remain in place throughout construction. Samples of the other external materials shall be submitted and approved in writing by the planning authority. Written approval shall be obtained before individual materials are used on site. All external colours shall be approved in writing by the planning authority before they are used on site.

Upon approval these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure that the materials to be used are suitable in their intended location adjacent to listed buildings and in the Glasgow Central Conservation Area.

5. Detailed drawing(s), including a section at 1:20 scale of the main glazed elevation, including details of the proposed glazing product, the framing and its materials and colour, how the glazing will be cleaned internally and externally and how rainwater on the facade will be dealt with shall be submitted to and approved by the planning authority in writing

before commencement of these works on site, and shall be implemented in the approved manner. Any ventilation panels located on the south facade of the building shall be part of a frameless system as viewed from the exterior.

Reason: to ensure that the details of the glazing installation and use are suitable in their intended location adjacent to listed buildings and in the Glasgow Central Conservation Area.

6. Full details, shall be submitted for the written approval of the planning authority prior to the commencement of the undernoted works on site. The submitted details shall include sections at 1:20 scale:

(a) through the main entrance on Queen Street, including details of the proposed door furniture its materials and colours;

(b) through the ramp, of the design and materials of the proposed ramp along the West George Street frontage including samples and construction methodology

(c) of the metal roof feature, including details of how it is to be illuminated internally and externally.

Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure that these details are suitable in their intended location adjacent to listed buildings and in the Glasgow Central Conservation Area.

7. Full details of any proposed external fittings, roof plant and enclosures and lift overruns shall be submitted for the written approval of the planning authority prior to the commencement of these works on site. For the avoidance of doubt these shall be designed in a manner that integrates with the rest of the building design and shall not project through the roof profile such that it is visible from Dundas Street, West George Street or Queen Street. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure that these details are suitable in their intended location adjacent to listed buildings and in the Glasgow Central Conservation Area.

8. No external fittings including gas and water pipes, gas and water meter boxes, balanced flues, solar panels, wind turbines, burglar alarms, air conditioning and ventilation plant, grilles or ducts shall be installed on the elevations facing Dundas Street, West George Street or Queen Street with the exception of CCTV cameras and emergency lighting above external exit doors. Full details shall be submitted for the written approval of the planning authority prior to the commencement of these works on site. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure that these details are suitable in their intended location adjacent to listed buildings and in the Glasgow Central Conservation Area.

9. A detailed reflected ceiling plan showing the location of all fixtures and fittings, including lighting, mechanical and electrical equipment, ventilation, gantries for electrification cables, display boards etc. shall be submitted for the written approval of the planning authority prior to the commencement of these works on site. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: in order that the works do not detract from the appearance of the building.

Public realm works

10. The external security bollards as shown on drawing ZO(PL)AP101 Lower Ground as Proposed 08 shall be implemented as shown on this approved plan.

Reason: in order that the works do not detract from the appearance of the building.

11. Full details of a scheme of public realm works around the new Dundas Street entrance and on West George Street, including paving materials commensurate with adjacent streets in the city centre shall be submitted for the written approval of the planning authority prior to the completion of works on site.

Reason: to ensure that these works accord with other similar works in the area.

12. Prior to the start of works on site, details of any street furniture, lighting or signs to be removed by the developer to facilitate the proposed development shall be agreed with the planning authority. Thereafter, the removed equipment shall be replaced by the developer prior to the new station being brought into use, in accordance with details submitted to and approved by the planning authority.

Reason: in the interests of pedestrian and traffic safety.

13. Adequate and satisfactory measures to maintain street lighting levels upon completion of the building shall be submitted for the written approval of the planning authority prior to the commencement of construction work on site. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: in the interests of traffic and pedestrian safety

14. All entrances should provide a lit pedestrian footway from the adopted footway network to any entrance/exit from the building. Full details shall be submitted for the written approval of the planning authority prior to the occupation of the building. Upon approval these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: in the interest of pedestrian safety.

Interface with Millennium Hotel

15. Notwithstanding approval of details shown on drawings Z0(PL)AD105 Rev 02, Z0(PL)AD107 Rev 04, Z0(PL)AE159 Rev 04 and Z0(PL)AE160 Rev 05, further details of

an alternative design for the interface between the station and the western elevation of the Millennium Hotel may be submitted for the written approval of the planning authority prior to the commencement of this aspect of the works on site. The submission shall be accompanied by details of the fire strategy for information. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure that any alternative arrangements which involve retaining and reinstating the windows in the western elevation of the Georgian building of the Millennium Hotel are undertaken in a manner appropriate to the listed building.

Lighting

16. Light from the completed development shall not give rise to:

- (a) An 'Upward Waste Light Ratio' (maximum permitted percentage of luminaire lux that goes directly to the sky) in excess of 15%;
- (b) A 'Light Into Windows' measurement in excess of 10Ev (lux). (Ev is the vertical luminance in lux); and
- (c) 'Source Intensity' measurement in excess of 100 Kcd (kilocandela). (Source Intensity applies to each source in the potentially obtrusive direction out of the area being lit.)

Reason: in the interests of limiting the effects of light pollution on the environment and the users of surrounding developments, and of energy efficiency.

Cooking Odours/Fumes

17. (a) All cooking smells, noxious fumes or vapours from the premises shall be disposed of by means of a duct carried up above eaves level and terminating at a point 1 metre above eaves level. The duct shall be free from any obstruction such as a plate, cowl, cap or any other deflection at its termination point.

(b) A ventilation and filtration system incorporating at least the following elements shall be installed and operational before the use commences. The elements to be included are:

- (i) Canopies - A canopy (or canopies) shall be located above all cooking appliances .
- (ii) Air Flow - The canopy face velocity shall be not less than 0.5 mis.
- (iii) Primary Grease Filtration - Labyrinth (baffle) grease filters shall be installed within the canopy or canopies .
- (iv) Air Input - An air input system shall be provided by means of a pleated inlet filter, supplying clean filtered air equivalent to at least 80% 'make-up' of the extracted air.

(c) A maintenance/management scheme for the ventilation and filtration system, including all aspects referred to in (a) and (b) above shall be submitted to and approved in writing by the planning authority before the use commences and shall be implemented as approved for the duration of the use.

(d) Mechanical and electrical installations shall be arranged to ensure that the ventilation system is in operation during periods when the premises are open for the preparation and/or cooking of food.

Reason: to protect local residents and other users in adjacent properties from nuisance resulting from the disposal of cooking odours.

Refuse/Recycling Areas

18. Final details of refuse and recycling storage areas and bins and operational arrangements for their collection shall be submitted for the written approval of the planning authority prior to the building being brought into use. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to ensure the proper disposal of waste and to safeguard the environment of the development.

Windows of Commercial Units

19. The windows of commercial units shall be constructed in clear untinted glass, be kept free of vinyls and adverts and the internal layout shall avoid partitions or plant that obstruct visibility into the unit.

Reason: in order that the works do not detract from the appearance of the building.

Roller Shutters

20. No solid roller shutters or projecting roller shutter housings shall be included in the development. Full details of external security features proposed for use on the premises shall be submitted to the planning authority for written approval in respect of design, colour and location. Written approval from the planning authority shall be obtained prior to any installation work. Upon approval, these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: in order that the works do not detract from the appearance of the building.

External Doors

21. Threshold levels on external doors shall be consistent with those of the existing footway levels so as to avoid a tripping hazard and doors shall open into the premises.

Reason: in the interests of pedestrian safety.

Cycle Provision

22. Full details of the location and levels of safe, sheltered and secure public and staff cycle provision (along with suitable shower and changing facilities for staff) shall be submitted for the written approval of the planning authority prior to the occupation of the

building. Upon approval these aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

Reason: to encourage and support sustainable transport and travel.

Advisory note to be attached to the deemed planning permission

This planning permission will lapse on the expiration of a period of three years from the date of the decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Conditions to be attached to the conservation area consent (15/02321/DC) sought in relation to the demolition of Consort House

1. The development shall be implemented in accordance with drawing number Z0(PL)AP004 Revision 04 in respect of Demolition Works 1 and 3.

Reason: as this drawing constitutes the approved development.

2. The development hereby approved shall be commenced no later than 3 years from the date of this consent.

Reason: to comply with section 66 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended).

3. No demolition of the building(s) shall take place until contracts have been placed for the redevelopment of the site in accordance with a current planning permission. Written evidence shall be submitted to and approved in writing by the planning authority before any demolition takes place.

Reason: to safeguard the character of the surrounding conservation area.

4. Details of the appearance of any temporary barricades proposed during the works involved shall be submitted to the planning authority for approval and before commencement of work on the barricades and shall be implemented in the approved manner. The barricades shall be painted and/or maintained in good condition and kept free of advertisements.

Reason: to safeguard the character of the surrounding conservation area and in order to protect the visual amenity of the surrounding area.

Conditions to be attached to the listed building consent (15/02325/DC) sought in respect of proposed works to Queen Street Station and the Millennium Hotel

1. The development shall be implemented in accordance with the drawing number(s) in the list below. For the avoidance of doubt, Consort House is not covered by the listed building consent:

- Z0(PL)AP001 Site Plan revision 07
- Z0(PL)AP002 Application Boundary revision 07
- Z0(PL)AE020 Context Elevations as Existing revision 03

- Z0(PL)AE021 South Elevation as Existing revision 03
- Z0(PL)AE022 West Elevation as Existing revision 02
- Z0(PL)AS010 Section C-C as Existing revision 03
- Z0(PL)AP003 Proposed Alterations / Interfaces revision 05
- Z0(PL)AP004 Proposed Demolition - Plan revision 04
- Z0(PL)AE023 Proposed Demolition - South Elevation revision 03
- Z0(PL)AE024 Proposed Demolition - West Elevation revision 03
- Z0(PL)AP100 Basement as Proposed revision 09
- Z0(PL)AP101 Lower Ground as Proposed revision 08
- Z0(PL)AP102 Ground Floor as Proposed revision 09
- Z0(PL)AP103 Upper Ground as Proposed revision 08
- Z0(PL)AP104 First Floor as Proposed revision 09
- Z0(PL)AP105 Second Floor as Proposed revision 08
- Z0(PL)AP119 Roof Plan as Proposed revision 09
- Z0(PL)AS120 Sections A-A and B-B as Proposed revision 03
- Z0(PL)AS121 Sections C-C and D-D as Proposed revision 05
- Z0(PL)AS122 Sections Section E-E as Proposed 00
- Z0(PL)AE130 Context Elevations as Proposed revision 03
- Z0(PL)AE135 West Elevation as Proposed revision 05
- Z0(PL)AE136 South Elevation as Proposed revision 06
- Z0(PL)AE450 Internal Elevation 01 revision 04
- Z0(PL)AE452 Internal Elevation 02 revision 04
- Z0(PL)AE455 Internal Elevation 03 revision 04
- Z0(PL)AD101 Train Shed Interface 01 as Proposed (west gutter) revision 04
- Z0(PL)AD102 Train Shed Interface 02 as Proposed (south gable) revision 05
- Z0(PL)AD103 Side Roof interface as Existing revision 04
- Z0(PL)AD104 Side Roof Interface 01 as Proposed revision 03
- Z0(PL)AD105 Side Roof Interface 02 as Proposed revision 02
- Z0(PL)AD107 Section Hotel Interface as Proposed revision 04
- Z0(PL)AE159 Hotel Interface as Existing revision 04
- Z0(PL)AE160 Hotel Interface as Proposed revision 05
- Z0(PL)AG001 CGI Queen Street Station Hotel Interface as Proposed 01

as qualified by the undernoted conditions, subject to any non-material variation approved in writing by the planning authority.

Reason: as these drawings constitute the approved development

2. The development hereby approved shall be commenced no later than 3 years from the date of this consent.

Reason: to comply with section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended).

3. Following the removal of the western extension to the hotel, the applicant shall contact the planning authority to arrange a site inspection to agree the arrangements for the repair to the elevation and any internal areas affected by the demolition. The design and details of the external stone repairs shall match those of the existing original elevation. Full details of the agreed methods of repair, including elevation drawings and sections at a scale

of 1:20, including the materials to be used, shall be submitted for the written approval of the planning authority and thereafter implemented on site in the approved manner, unless otherwise agreed in writing by the planning authority..

4. For the avoidance of doubt any repairs to the building shall be carried out using replacement natural stone to match the original stonework in every respect including colour, geological character, texture and coursing pattern. A petrographic analysis of the original stonework and the proposed replacement stone together with samples shall be submitted to and approved in writing by the planning authority before work on this element of the development commences. The development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

5. Details of the extent of stonework repairs and details of the proposed repair methods shall be submitted to the planning authority in the form of marked-up elevational drawings at a scale of 1:20. No work shall be begun on this element of the development until written approval has been issued. These aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority..

6. All repointing of exterior stonework shall match the original pointing in every respect including mix of materials, colour and thickness.

7. If following demolition and inspection it is deemed appropriate by the planning authority that the west elevation be painted, full details of a scheme investigating the nature of the paint previously applied to the external elevations of the building and assessing the viability of its removal, including technical details of the proposed method(s) of removal shall be submitted for the written approval of the planning authority prior to the commencement of works on site. The owner and operator of the Millennium Hotel will be consulted throughout this process. Once the method(s) has/have been approved, sample panels shall be prepared at agreed locations on the building for the inspection and written approval of the planning authority. No work shall be begun on this aspect of the works until these written approvals have been issued. These aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

8. Gutters and downpipes on the west elevation shall be painted in a colour to be approved in writing by the planning authority before any work on this element of the development is begun. For the avoidance of doubt all new and replacement external rainwater pipework shall be constructed in cast iron. These aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority.

9. No external fittings including gas and water pipes, gas and water meter boxes, balanced flues, solar panels, wind turbines, burglar alarms, security lights and cameras, air conditioning and ventilation plant, grilles or ducts shall be installed on the west and south elevations.

10. All vents and flues associated with hotel bedrooms shall be routed internally and not project out on west and south elevations.

11. Notwithstanding approval of details shown on drawings Z0(PL)AD105 Rev 02, Z0(PL)AD107 Rev 04, Z0(PL)AE159 Rev 04 and Z0(PL)AE160 Rev 05, further details of an alternative design for the interface between the station and the western elevation of the

Millennium Hotel may be submitted for the written approval of the planning authority prior to the commencement of this aspect of the works on site. The submission shall be accompanied by details of the fire strategy for information. These aspects of the development shall then be implemented as approved, unless otherwise agreed in writing by the planning authority.

12. No secondary ventilation grilles shall be fitted in the glazed areas of window on the west and south elevations.

13. All external colours shall be approved in writing by the Planning Authority before they or any relevant materials are used on the site. These aspects of the development shall be implemented as approved, unless otherwise agreed in writing by the planning authority..

14. No demolition of the building(s) shall take place until contracts have been placed for the redevelopment of the site in accordance with a current planning permission. Written evidence shall be submitted to and approved in writing by the planning authority before any demolition takes place.

Reason for conditions 3 to 14: to safeguard the character of the listed building.

APPENDIX 3: SIGNIFICANT ENVIRONMENTAL EFFECTS AND MITIGATION

Air quality:

A.1 The addendum to the environmental statement identifies a potential medium risk of effects from dust soiling and on human health in the area within 350 metres of the site boundary. It takes account of the Millennium Hotel as a high sensitivity receptor. It proposes standard mitigation measures for medium-risk sites. The mitigation measures are set out in chapter 6 of the draft code, and include the preparation of a dust and air quality management plan, measures to control vehicle and plant emissions, dust control measures, and measures to monitor dust and air quality. Specific measures are also applied to prevent effects on air quality from the removal of asbestos from buildings and particular controls on demolition. With the measures incorporated in the draft code of construction practice, the addendum to the environmental statement anticipates no significant effects.

A.2 The addendum also found no significant cumulative effects with other nearby construction projects, including the Buchanan Galleries extension, assuming those projects implement similar air quality protection measures.

A.3 We accept the assessment of air quality and have imposed a requirement in our suggested condition 3 to provide an air quality management plan and carry out the measures contained in it as part of the code of construction practice.

Built heritage

A.4 The environmental statement identified significant direct adverse effects during demolition and construction phases of the development on the listed buildings at the station and Cathedral Street Bridge and on the Millennium Hotel on account of the direct alterations and risk to the fabric of the historic buildings. Significant effects are also predicted on the Merchants' House on George Square opposite the station as a consequence of the alteration of its setting. However, following completion, the environmental statement identified significant beneficial effects for the station building, the hotel and the Merchants' House. Mitigation measures are proposed as part of the code of construction practice with the aim of preventing disturbance or damage to built heritage during demolition and construction phases.

A.5 Significant cumulative impacts are predicted by the addendum to the environmental statement from the two phases of the Buchanan Galleries extension. A temporary significant adverse cumulative effect was predicted during the construction of Buchanan Galleries' phase 1 on 164a to 168 Buchanan Street and 10 Dundas Lane. Once both phases of the proposed Buchanan Galleries extension have been completed a significant beneficial effect is predicted upon the A-listed buildings of the station and 164a to 168 Buchanan Street and 10 Dundas Lane, and upon the B-listed Millennium Hotel. No additional mitigation measures are proposed in the addendum in respect of demolition and construction phases to address cumulative effects. Although there is reference in the addendum to direct effects post-construction on receptors being mitigated by use of appropriate architectural detailing in the Buchanan Galleries development, that is really an aspect of the baseline assessed, and not mitigation that can be conditioned as part of the present consent.

A.6 We accept the assessment of effects upon built heritage. We have included a requirement in our suggested condition 3 to provide, as part of the code of construction practice, an environmental management plan including measures to protect the fabric of historic buildings during demolition and construction. We envisage the measures would be as described in chapter 11 of the draft code attached to the environmental statement. These measures would be subject to the planning authority's approval and their implementation would be a requirement of the condition.

Station users

A.7 During the demolition and construction phases, the environmental statement predicts significant effects on public transport caused by the 21-month partial closure of West George Street and its four-week full closure, resulting in delays to bus and taxi services and (for the full closure) lengthening of bus journeys. There would also be a significant effect on bus-train interchange as a consequence of removal of the West George Street bus stops and taxi rank, with the result that passengers would have longer journeys when changing transport mode. It is predicted the provision of an alternative taxi rank would mean there would be no significant effect on those arriving at the station by taxi. The effect upon journey quality for travellers passing through the station is predicted to be significantly adverse during demolition and construction, including significant effects on traveller care, on views and in terms of increased stress.

A.8 The completed development would improve the station's function by allowing longer 8-carriage trains to carry the predicted increase in passenger numbers. This is recorded in the environmental statement as a significant beneficial effect. Other effects of the completed development on station users, such as improvements in information and environment and poorer availability of facilities, are not recorded as significant.

A.9 In mitigation, a traffic management plan is proposed with measures to minimise disruption, including disruption to public transport. As part of this, the provision of temporary replacement bus stops is proposed. A communications strategy is also proposed as part of the draft code of construction practice to inform station users of progress in construction and address concerns. The code would also include requirements to screen construction sites from station users.

A.10 Cumulative effects on station users are anticipated if construction takes place at the same time as construction of the development at 366 Cathedral Street. In mitigation, dialogue is proposed with the contractors at 366 Cathedral Street to identify means by which construction activities can be undertaken so as to reduce the effect on the local transport network and station users. Although construction of the first phase of the Buchanan Galleries extension is proposed to coincide with the station redevelopment, no significant effect on station users is identified by the addendum to the environmental statement. It explains that safe routes would be available to the station throughout the Buchanan Galleries project.

A.11 We accept the assessment made of the effects on station users. We have recommended imposing condition 3(f) requiring the provision of a transport management plan for approval before commencement of development, and to be implemented subsequently, and have also recommended including in condition 3 requirements for the code of construction practice to include a communications strategy and measures to

mitigate the impact of the construction site on visual amenity, noise, vibration and air quality, all of which would address the impact on station users. We have also recommended as part of the code a scheme to minimise cumulative effects of construction by coordinating with developers of developments identified to have a cumulative effect.

Noise and vibration

A.12 The environmental statement identified significant noise effects in daytime at the west façade of the Carlton Hotel (location 10 shown in appendix F4) for phases 4 to 8 of the project and at the west end of the south façade of the Millennium Hotel (location 7) for phases 3 to 10 of the project due to heavy demolition and debris removal. There were also significant effects for the same reasons at the same two locations in the evening. At night there were significant effects at the west end of the south façade of the Millennium Hotel due to noise from debris removal.

A.13 The addendum, which considered the cumulative effects of the Buchanan Galleries extension and also considered the effect on the Millennium Hotel on the basis that it would remain open during demolition and construction work. It identified significant cumulative effects during the day (0700 hours to 1900 hours) at the Carlton Hotel west façade (though noise was dominated by construction of the first phase of the Buchanan Galleries extension), at the east façade of the Carlton Hotel (location 8) for 15 months (with the proposed development the dominant noise source for 15 months), and at residential properties in Buchanan Street (although the proposed development was only a minor contributor).

A.14 An exceedence of the threshold of significance for noise effects by two decibels is also predicted at the west end of the south façade and west face of the Millennium Hotel during the day for 14 months. The assessor did not regard this as significant given it was only a temporary effect in daytime. The applicants applied the ABC method drawn from appendix E of British Standard BS 5228-1:2009 (the Code of practice for noise and vibration control on construction and open sites – part 1: noise) for identifying significance. This method, in arriving at threshold values, factors in that a small increase above ambient noise is not significant. As we understand paragraph 8.9.1 of the environmental statement, the values in table 8.8 represent figures already adjusted from recorded ambient noise to establish threshold values in accordance with the method. Therefore we consider it to be double counting to discount as not significant a small exceedence of the threshold. We find that daytime noise effects at the west façade are just over the threshold of significance.

A.15 In the evening (1900 hours to 2300 hours), the addendum identified significant effects where the proposed development was the main or a main contributor at the west end of the south façade of the Millennium Hotel, at the west façade of the Millennium Hotel and at the east façade of the Carlton Hotel. There were also significant effects at the west façade of the Carlton Hotel and residential properties in Buchanan Street, where the proposed development was only a minor contributor.

A.16 At night (2300 hours to 0700 hours), the addendum predicted significant effects at the west end of the south façade of the Millennium Hotel and at the west façade of the Millennium Hotel to which the proposed development was the main contributor. There were also significant effects at Hanover Court (for one day), at the west and east façades of the Carlton Hotel, and at residential properties in Buchanan Street, to which the proposed development was only a minor contributor.

A.17 No significant effects of vibration were found.

A.18 Network Rail set out its proposals for mitigation of noise effects in paragraph 8.10 of the environmental statement and section 5 of the draft code of construction practice. It proposes mitigation by applies noise control measures based upon British Standard BS 5228-1:2009. These include the production of a noise and vibration management plan, notification of noisy works to noise sensitive properties, a series of measures aimed at keeping noise as low as reasonably practicable, a requirement to offer noise insulation where noise immissions to residential property, to hotels or to education facilities exceeds specified thresholds over a specified period of time, and noise monitoring.

A.19 Notwithstanding the proposed mitigation, the addendum to the environmental statement predicts that night-time noise criteria would be exceeded at the most exposed hotel rooms in the Millennium Hotel. Therefore noise insulation is to be offered to the hotel. The installation of such insulation would be subject to listed building consent, and it cannot be certain it would be permitted. We have therefore taken account of the significant residual noise effect on the Millennium Hotel in reaching our final recommendation.

A.20 With the exception of our comments at paragraph A.14 above, we accept the assessment made in the environmental statement and addendum of the significance of noise effects. We have included requirements in condition 3 to identify normal working hours and specify exceptions from normal hours and the procedure by which they may be approved, and also a requirement for a noise management plan and a scheme for community liaison to ensure occupants of noise sensitive properties are informed of works that might affect them.

Traffic and transport

A.21 The environmental impact assessment identifies no significant effects on traffic and transport, even when the construction phase coincides with the construction of the first phase of Buchanan Galleries. We accept this assessment. A transport management plan is proposed nonetheless to minimise such effects as there are of the proposed development. The submission for approval of the transport management plan and its implementation as approved is required by our recommended condition 3(f).

Townscape and visual

A.22 No significant effects are predicted on townscape or visual amenity either during the demolition and construction phase or following completion. We accept this assessment.

Other effects

We have found no other significant effects of the proposed development.

APPENDIX 4: CHANGES TO THE ORDER

RECOMMENDED AMENDMENTS TO THE ORDER

Amendment number	Article	Amendment	Explanation
(i)	contents	In the line beginning “4.” delete “and maintain”	An amendment in the title of the article in consequence upon amendment (xi)
(ii)	contents	In the line beginning “5.” delete “and maintain”	An amendment in the title of the article in consequence upon amendment (xiii)
(iii)	contents	After “38. Environmental assessment” add:- “of reserved matters”	An amendment in the title of the article consequential upon amendment (xxiii)
(iv)	contents	In the line beginning “43.” Delete the remainder and insert “Notification of the date of completion of authorised works”	An amendment in the title of the article in consequence upon amendment (xxvii)
(v)	2(1)	After the definition of “the 2007 Act” insert “the 2011 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011”	The definition is inserted of a term introduced in articles 34 and 38 by proposed amendments.
(vi)	2(1)	After “‘the authorised works’ means the scheduled works and any other works authorised by this Order” add:- “with the exception of safeguarding works carried out under article 14”	The term “the completion of authorised works” is used in article 14 to define the beginning of a period of 5 years within which safeguarding works may be carried out, and also of a period of 12 years within which compensation may be obtained in respect of safeguarding works. Clearly safeguarding works are works authorised by the Order. However, if the term “authorised works” does not exclude the safeguarding works, it will never be clear if the two periods defined in article 14 have begun to run.
(vii)	2(1)	After the definition of “construction” insert:- “‘date of completion of the authorised works’ means for the purposes of articles 11(1), 14(3)(b), 14(6)(b) 19(3)(b), and 43 the date on which the new station building is fully opened to	The term, “date of completion of the authorised works” is used in articles 11(1), 14(3)(b), 14(6)(b) and 19(3)(b) to refer to the beginning of a period of time within which certain powers, rights or obligations apply for certain parties. 11(1) allows Network Rail to exercise its traffic regulation powers for 12 months after that date;

		<p>the public following completion of its construction;</p> <p>“deemed planning permission” means planning permission deemed to have been granted under section 57(2A) of the 1997 Act in respect of the subject matter of this Order;”</p>	<p>14(3)(b) allows Network Rail to exercise its power to carry out safeguarding works for 5 years after that date;</p> <p>14(6)(b) entitles owners and occupiers of buildings for any damage sustained by them to compensation within a period of 12 years after completion of the authorised works if it appears that the safeguarding works are inadequate to protect the building from damage from construction or operation of the authorised works;</p> <p>19(3)(b) sets a period of one year beginning on that date within which Network Rail may remain in possession of land belonging to others without their agreement.</p> <p>The date of completion of works is not always self-evident, particularly when some works, such as safeguarding works, may continue after completion of scheduled works. The term “authorised works” includes the scheduled works and any other works authorised by the order, which will include ancillary works. A full description has not yet been provided of ancillary works.</p> <p>Given the importance of the date for operation of the Order, it should be clearly defined. Network Rail’s planning witness in oral evidence stated the intention was that the date of completion of the authorised works was the date on which the new station building would be fully open to the public following completion of its construction. The purpose of the amendment is therefore to insert this definition in the Order.</p> <p>As regards the definition of “deemed planning permission”, this defines a term proposed to be used in articles 5, 34, 38 and 42.</p>
(viii)	2(1)	<p>After the definition of “enactment” insert:-</p> <p>"environmental statement" means the environmental statement, dated 11th</p>	<p>These amendments are intended to operate with amendment (xix) to article 5. They remove references to Network Rail’s scheme whereby a further environmental statement would be provided if it appeared that ancillary</p>

		September 2015, that was one of the documents that accompanied the application for this Order;”	development might have significant environmental effects not already assessed. The purpose of these amendments is explained in relation to amendment (xix).
(ix)	2(1)	Delete the definition of “first environmental statement”	
(x)	2(1)	Delete the definition of “relevant environmental statement”	
(xi)	4	In the article’s title, delete “and maintain”	The description of the proposed development in the environmental statement includes its construction, but not its maintenance, at least in the broad terms in which that expression is defined in the draft Order, which would include power to alter, remove, reconstruct, renew or replace the works. This amendment is therefore proposed to bring the Order into line with the description in the environmental statement. It does not appear to us necessary as part of the present consent to grant the broad powers sought by Network Rail to carry out future works. There are extensive permitted development rights to carry out railway development on railway operational land, and we see no reason to grant additional powers in respect of future works, following the redevelopment of the station.
(xii)	4	After “carry out” delete “and maintain”	
(xiii)	5	In the article’s title, delete “and maintain”	Consequential upon amendment (xv)
(xiv)	5(1)	After “paragraph” delete “(2)” and insert “(3)”	Consequential upon amendment (xviii)
(xv)	5(1)	After “construct” delete “and maintain”	This amendment goes along with the amendment (xii) to article 4. The description of the proposed development in the environmental statement includes its construction but not its maintenance (as defined in the Order). It is not necessary at this stage to grant consent for future works that might follow the redevelopment of the station.
(xvi)	5(1)	After “construction” delete “maintenance and use”	The purpose of Article 5 should be to authorise works that are genuinely ancillary to the project. The project described in the Order’s schedule 1 and in the environmental statement is

			<p>essentially a construction project: the redevelopment of the station, including its extension and the demolition of existing buildings. Works that are genuinely ancillary are those necessary or expedient for the purposes of, in connection with or in consequence of that project. To authorise also works that are ancillary to the maintenance (as defined in the Order) or use of the scheduled works is to authorise essentially unspecified works that might follow the station's redevelopment. This goes beyond what is genuinely ancillary to the project. It also suggests that works authorised by the Order might never be complete. This appeared to be the view of Network Rail, who submitted that, in their draft, article 5's authorisation of ancillary works could support a grant of deemed planning permission in principle sufficient to take the place of the permitted development rights it claimed would otherwise have been available if it had sought to authorise the project by private Act of Parliament. This is discussed at paragraph 6.184 in chapter 6 of this report.</p> <p>We therefore recommend this amendment to Network Rail's draft Order so that the ancillary works authorised are limited to what is genuinely ancillary to the project.</p>
(xvii)	5(1)	After "construction ... of the" delete "scheduled works" and insert "authorised works"	"authorised works" is a defined term that comprehends not only the scheduled works, but also other works authorised by the Order (including – for instance – the ancillary works or access works authorised by article 6(1)). Following this amendment, paragraph (1) would authorise works ancillary to all authorised works, not just those ancillary to the scheduled works. This amendment makes it possible to dispense with paragraph (2) of the article in Network Rail's draft.
(xviii)	5(2)	Delete paragraph 5(2) and renumber other sub-articles	In Network Rail's draft, paragraphs (1) and (2) of the article would have similar effect, except that paragraph (1) would permit works ancillary to construction, maintenance and use of the scheduled works only, while paragraph (2) authorises works

			ancillary to all authorised works – but only to their construction and maintenance. The justification for this arrangement is not apparent. If article 5(1) is amended as we propose, this paragraph can be dispensed with.
(xix)	5(3)	<p>Delete 5(3) and insert a new paragraph 5(2):</p> <p>“(2) Paragraph (1) only authorises the construction of works—</p> <p>(a) within plots nos. 2A, 2B and 2C, to the extent and for the purposes set out in Part 3 of Schedule 9;</p> <p>(b) in any other case, within the Order limits; and</p> <p>(c) which are either</p> <p>(i) within the scope of the environmental impact assessment reported in the environmental statement or ES addendum; or</p> <p>(ii) multi-stage works.</p> <p>(3) In this article, “multi-stage works” means works authorised by this Order that, in terms of a condition imposed on deemed planning permission require the approval, consent or agreement of the planning authority before all or part of the development permitted by deemed planning permission may be begun.</p>	<p>This amendment has several purposes:</p> <p>First, it renumbers the paragraph to take account of the our recommendation of deletion of paragraph (2) in Network Rail’s draft Order.</p> <p>Second, it removes the reference to maintenance of authorised works – a point explained in relation to our proposed amendment (xvi) to paragraph (1).</p> <p>Third, it removes the reference to “relevant environmental statement”, the definition for which is deleted.</p> <p>Fourth, it creates an arrangement (along with article 38) such that the project’s ancillary works are consented by a multi-stage consent process: the ancillary works authorised must either be within the scope of the environmental impact assessment already carried out, or else, if they may have significant environmental effects, additional environmental information must be sought in respect of them in accordance with the multi-stage consent process in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011.</p> <p>Although Network Rail had proposed a similar arrangement for provision of a further environmental statement, the process proposed was flawed. It made no provision for consultation or notice to the public of the further environmental statement, nor (read with its scheme for expedited approvals in article 34) did it provide sufficient time for the planning authority to carry out such consultation or notification or to consider any such further environmental statement so that it could be properly taken into account.</p>

			<p>Fifth, the amendment removes reference to consent for ancillary works “within the land adjoining plot no.1 which is the part of the land shaded grey on sheet no. 4 of the Order plans that is outwith the Order limits”. The amendment to include reference to this land was proposed by Network Rail at a late stage (after the conclusion of the inquiry). Network Rail have provided no adequate explanation for the inclusion of this land, although it appears to be associated with works following the completion of the station redevelopment project, ancillary to the maintenance or use of the redeveloped station (an issue we have addressed at paragraph 6.184 of this report and in relation to amendment (xvi) above). Archyfield has objected to the amendment on the basis that the land abuts the hotel, it is not clear what is proposed to be permitted and it did not have an opportunity to put any question about it at the inquiry. In the absence of an explanation as to how this land relates to the proposed development, we recommend it is not included in the land on which ancillary works may be carried out.</p>
(xx)	14(3)(b)	Delete 14(3)(b) and insert “at any time up to the end of the period of five years beginning with date of completion of the authorised works.”	The phrase “the completion of authorised works” has been used elsewhere in the order as a date at which time periods begin to run, including at 14(6)(b). We have proposed this amendment so that this phrase is used consistently across the Order. Our proposed amendment (vi) would provide a definition of “the completion of authorised works”. If that amendment is accepted, we consider this amendment (xx) must also be accepted.
(xxi)	14(6)	After “years after” insert “the date of”	This insertion is made so that the defined term “date of completion of the authorised works” is used consistently throughout the Order.
(xxii)	34(2)	After “the grant of- (a)” delete “a determination under article 38; (b) approval of a matter specified in conditions relating to the	Article 34, as presently drafted, provides an expedited timetable for applications for consent for building warrants, for approval of matters specified in conditions of deemed

		<p>planning permission deemed to have been granted on the making of this Order;” and insert “(a) approval of a matter specified in conditions relating to deemed planning permission, if the planning authority confirms that it is not required under regulation 27A of the 2011 Regulations (as inserted by article 38 of this Order) to seek additional information in respect of the application for approval of that matter;”</p>	<p>planning permission in principle and for other consents if Network Rail and the consenting body agree the timetable applies.</p> <p>This amendment is proposed in the context of amendment (xxiii) to article 38. Its effect is to exclude development in respect of which additional information is required to be submitted as part of the environmental impact assessment of the project. It also revises the terminology of “approval of matters specified in conditions of planning permission in principle” to that used in the Transport and Works 2007 (Applications and Objections Procedure) Rules 2007 rule 8(6)(c)-(d) and rule 16(k)(iii).</p> <p>The main purpose of the amendment is to provide that the expedited timetable does not apply to an application for approval that is to be treated as an application for multi-stage consent for EIA development. This will allow sufficient time for any additional environmental information submitted to be consulted upon, notified to the public and properly considered.</p>
(xxiii)	38	<p>Delete article 38 and insert:-</p> <p>“Environmental assessment of reserved matters</p> <p>38.— The 2011 Regulations apply in respect of deemed planning permission as if-</p> <p>(a) in the definition of “application for multi-stage consent” after paragraph (a) there were inserted-</p> <p>“(aa) a condition imposed on planning permission deemed to be granted by a direction made under section 57(2A), where (in terms of the condition) that approval, consent or agreement must be obtained from the planning authority before all or part of the development permitted by the deemed planning permission may be begun;”</p> <p>and</p>	<p>This amendment is proposed to amend the provisions on multi-stage consent in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 and apply them to the deemed planning permission sought by Network Rail.</p> <p>The purpose is to ensure that if an application for approval in respect of reserved matters is for ancillary development or other details required under suspensive conditions that may have significant environmental effects not already assessed, additional information must be supplied and considered in accordance with the process in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011.</p>

		<p>(b) after regulation 27 there were inserted— “27A. Where— (a) an application for multi-stage consent which is before a planning authority or the Scottish Ministers for determination relates to planning permission for EIA development; (b) a report referred to by the developer as an EIA report has previously been submitted by the developer in relation to the development; (c) it appears to the planning authority or Scottish Ministers, as the case may be, that the development may have significant effects on the environment that have not previously been identified; and (d) the developer has not submitted additional information in respect of those effects together with the application for multi-stage consent, the planning authority or the Scottish Ministers must seek additional information from the developer in accordance with regulation 23(2) in respect of such effects.”.</p>	
(xxiv)	40(a)(i)	After “in connection with the” delete “construction or maintenance of”	The phrase deleted is extraneous.
(xxv)	41	In the second row of the table, delete “First environmental” and insert:- “Environmental”	These amendments are consequential upon amendment (xxiii).
(xxvi)	41	Delete the fourth row of the table	
(xxvii)	43	Delete article 43 and insert “Network Rail shall give notice to the planning authority of the date of completion of the authorised works within seven days after it occurs.”	Article 43 as drafted allows ancillary works to be treated as separate development for the purpose of notification of completion of development. We understand Network Rail has included this provision because of its understanding that

			<p>approvals under planning permission in principle can be treated as being analogous to prior approval under permitted development rights, and therefore approvals may be sought for individual ancillary works following completion of the station redevelopment. We have rejected this approach as incompatible with the requirements for environmental impact assessment in articles 5 and 9 of the Transport and Works 2007 (Applications and Objections Procedure) Rules 2007. Therefore article 43 becomes extraneous.</p> <p>We have included a requirement for Network Rail to give notice of the date of completion of the authorised works (a term defined in article 2) because a number of time periods within the Order run from that date (see articles 11(1), 14(3)(b), 14(6)(b), 19(3)(b)).</p>
(xxviii)	45	After “Network Rail may” insert “with the approval of Scottish Ministers”	This amendment would limit Network Rail’s discretion to make rules providing for the preparation, verification and validation of Order documents, such that it could only make such rules with the approval of Scottish Ministers. It is not appropriate that a non-governmental body should have full discretion, without further reference to government, to make rules regulating such matters.

2015 No.

TRANSPORT AND WORKS

TRANSPORT

The Network Rail (Glasgow Queen Street Station) Order 201[6]

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

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The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1(1), 2(1), (3) and (4) and 28(6) of, and paragraphs 1 to 5,7, 8,10, 11, 17 and 18 of schedule 1 to, the Transport and Works (Scotland) Act 2007(**126**) and all other powers enabling them to do so.

In accordance with rules (**127**) made under section 4 of that Act an application for this Order has been made to them.

They have caused an inquiry to be held under section 9(1) of that Act and in accordance with section 8(4) of that Act they have taken into consideration the report of the persons who held the inquiry.

In accordance with section 11(2)(b) of that Act they have determined to make this Order.

PART 1

PRELIMINARY

Citation and commencement

This Order may be cited as the Network Rail (Glasgow Queen Street Station) Order 201[6] and comes into force on [].

Interpretation

—(1) In this Order—

“the 1845 Act” means the Railways Clauses Consolidation (Scotland) Act 1845(**128**);

“the 1845 Lands Act” means the Lands Clauses Consolidation (Scotland) Act 1845(**129**);

“the 1963 Act” means the Land Compensation (Scotland) Act 1963(**130**);

“the 1984 Act” means the Roads (Scotland Act) 1984(**131**);

“the 1991 Act” means the New Roads and Street Works Act 1991(**132**);

“the 1997 Act” means the Town and Country Planning (Scotland) Act 1997(**133**);

⁽¹²⁶⁾ 2007 asp 8.

⁽¹²⁷⁾ See the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 (S.S.I. 2007/570), rules 7 to 13.

⁽¹²⁸⁾ 1845 c.33.

⁽¹²⁹⁾ 1845 c.19.

⁽¹³⁰⁾ 1963 c.51.

⁽¹³¹⁾ 1984 c.54.

⁽¹³²⁾ 1991 c.22.

⁽¹³³⁾ 1997 c.8.

“the 2003 Title Act” means the Title Conditions (Scotland) Act 2003⁽¹³⁴⁾;

“the 2003 Land Act” means the Land Reform (Scotland) Act 2003⁽¹³⁵⁾;

“the 2007 Act” means the Transport and Works Scotland Act 2007⁽¹³⁶⁾;

“the 2011 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 ^(j)

“the authorised works” means the scheduled works and any other works authorised by this Order with the exception of safeguarding works carried out under article 14;

“building” includes any structure or erection or any part of a structure or erection;

“construction” includes execution, placing, alteration and reconstruction and demolition; and “construct” and “constructed” have corresponding meanings;

“date of completion of the authorised works” means for the purposes of articles 11(1), 14(3)(b), 14(6)(b), 19(3)(b) and 43 the date on which the new station building is fully opened to the public following completion of its construction;

“deemed planning permission” means planning permission deemed to have been granted under section 57(2A) of the 1997 Act in respect of the authorised works;

“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“environmental statement” means the environmental statement, dated 11th September 2015, that was one of the documents that accompanied the application for this Order;

“ES addendum” means the document dated 4th April 2016 which was submitted by Network Rail in the course of the inquiry into this Order as an addendum to the environmental statement;

“functions” includes powers, duties and obligations;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct, renew and replace; and “maintenance” shall be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited (company No. 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN or any subsidiary of that company;

“operational land” has the meaning given by section 215 of the 1997 Act;

“the Order limits” means the limits so described on the Order plans;

“the Order plans” means the plans certified by the Scottish Ministers as the Order plans for the purposes of this Order and deposited at the offices of the Scottish Ministers, Victoria Quay, Edinburgh, EH6 6QQ;

“partial acquisition” means an acquisition of part only of—

any house, building or factory, or

any land consisting of a house with a park or garden,

where a person is able to sell the whole of the house, building, factory or land;

“real burdens” has the same meaning as in the 2003 Title Act;

“road” has the meaning given by section 107 of the 1991 Act;

“the road works authority” has the meaning given by section 108 of the 1991 Act;

“the roads authority” has the meaning given by section 151(1) of the 1984 Act;

“the scheduled works” means the works specified in Schedule 1, or any part of them;

“the tribunal” means the Lands Tribunal for Scotland; and

“works” includes operations.

References to numbered plots are to the plots shown with those numbers on sheet no. 2 of the Order plans.

⁽¹³⁴⁾ 2003 asp 9.

⁽¹³⁵⁾ 2003 asp 2.

⁽¹³⁶⁾ 2007 asp 8.

(j) SSI 2011/139

Application of Railways Clauses Acts

—(1) The following Acts are incorporated with this Order (so far as applicable for the purposes of and not inconsistent with, or varied by, the provisions of this Order)—

the 1845 Act except sections 1, 7 to 23, 25 to 37, 40 to 50, 52 to 56, 58, 59, 66, 68, 79, 80, 87, 88, 105 and 106, and

in the Railways Clauses Act 1863⁽¹³⁷⁾, section 12.

In construing the enactments incorporated with this Order—

this Order is deemed to be the special Act;

Network Rail is deemed to be the promoter of the undertaking or the company;

the authorised works are deemed to be the works or the undertaking;

section 60 of the 1845 Act has effect with the omission of the words from “Such and” to “formation thereof” and from “together with all necessary gates” to “all necessary stiles”.

PART 2

WORKS PROVISIONS

Power to carry out scheduled works

— Network Rail may carry out the scheduled works.

Power to construct ancillary works

—(1) Subject to paragraph (2), Network Rail may construct such of the works described in Schedule 2 as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the authorised works.

(2) Paragraph (1) only authorises the construction of works—

- (a) within plots nos. 2A, 2B and 2C, to the extent and for the purposes set out in Part 3 of Schedule 9;
- (b) in any other case, within the Order limits; and
- (c) which are either:
 - (i) within the scope of the environmental impact assessment reported in the environmental statement or ES addendum; or
 - (ii) multi-stage works

(3) In this article, “multi-stage works” means works authorised by this Order that, in terms of a condition imposed on deemed planning permission require the approval, consent or agreement of the planning authority before all or part of the development permitted by deemed planning permission may be begun.

Access to works

—(1) Network Rail may, for or in connection with the authorised works, form and lay out means of access, or improve existing means of access, to or from any public road in such location or locations within the Order limits as may be approved by the roads authority.

(2) Network Rail may, in addition, from time to time provide temporary means of access to Glasgow Queen Street Station from Buchanan Street, via Dundas Lane and Dundas Street, and from North Hanover Street, and may for that purpose provide signage—

- (a) in any of those streets, West George Street, George Square and Queen Street; and
- (b) after consultation with the roads authority, in any other street.

⁽¹³⁷⁾ 1863 c. 92.

(3) Approval of the roads authority under paragraph (1) must not be unreasonably withheld and is deemed to be given unless within 14 days of the roads authority receiving Network Rail's written request for approval Network Rail receives notification in writing that the roads authority is withholding consent, and article 34 does not apply to any such approval.

Any question whether an approval has been unreasonably withheld must, unless the parties otherwise agree, be determined by arbitration.

Rights in roads and public places

—(1) Network Rail may—

enter upon and appropriate so much of the subsoil of, or air-space over, any road or public place within the Order limits as may be required for the purposes of exercising the powers conferred by this Order;
execute any works required for or incidental to the exercise of those powers; and
use the subsoil or air-space for those purposes or any other purpose connected with or ancillary to its railway undertaking.

Subject to paragraph (3), the powers conferred by paragraph (1) may be exercised in relation to a road or public place without Network Rail being required to acquire any part of the road or place or any servitude or other right in relation to it.

Paragraph (2) does not apply in relation to—

any subway or underground building; or
any cellar, vault, arch or other construction in or on a road which forms part of a building fronting onto the road or public place.

In exercise of the powers of paragraph (1) Network Rail may break up or open the road or public place, or any sewer, drain or tunnel under it, may tunnel or bore under or open it and may remove and use the soil or other materials in or under it.

Network Rail is not required to pay compensation for the exercise of the powers conferred by paragraph (1) to the roads authority in respect of a public road or to the authority in which any public place is vested.

Any person other than an authority mentioned in paragraph (5) who—

is an owner or occupier of land in respect of which the power conferred by paragraph (1) is exercised without Network Rail acquiring any part of that person's interest in the land; and
suffers loss by reason of the exercise of that power,

is entitled to compensation to be determined, in case of dispute, under the 1963 Act.

Application of the 1991 Act

—(1) Works to which paragraph (2) applies are to be treated for the purposes of Part IV of the 1991 Act as major works for roads purposes if—

they are of a description mentioned in any of paragraphs (a) to (d), (f) and (g) of section 145(3) of that Act (which defines what roads authority works are major works for roads purposes); or
they are works which, had they been executed under the powers of the roads authority, might have been carried out in exercise of the powers conferred by section 27 (dual carriageways, roundabouts and refuges) or 63 (new access over verges and footways) of the 1984 Act.

Subject to paragraph (3), this paragraph applies to any authorised work where the construction of the work involves the execution of road works in relation to a road which consists of or includes a carriageway.

In Part 4 of the 1991 Act, references, in relation to major works for roads purposes, to the roads authority concerned are to be construed, in relation to the works which are major works for roads purposes by virtue of paragraph (1), as references to Network Rail.

The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

section 115 (directions as to timing);
section 115A (power to give directions as to placing of apparatus);

section 117 (restrictions following substantial road works);
section 120 (protected roads);
section 122 (roads with special engineering difficulties).

Roads (Scotland) Act 1984: disapplications

The following provisions of the 1984 Act do not apply to the construction of the authorised works or anything done under the powers of this Order in connection with the construction of the works—

sections 56 to 61A (works and excavations);
section 85 (control of builders' skips on roads).

Temporary stopping up, alteration or diversion of roads

—(1) During and for the purposes of the execution of the authorised works Network Rail may temporarily stop up, alter or divert all or part of the roads within the Order limits (namely parts of West George Street, George Square, Dundas Street and Dundas Lane) and in so much of the road where these powers have been exercised may for any reasonable time—

divert the traffic from the road;
subject to paragraph (3), prevent all persons from passing along the road; and
use the road as a temporary work site.

Network Rail may in addition temporarily stop up each of the roads specified in columns (1) and (2) of Schedule 3 to the extent specified (by reference to the letters and numbers shown on the relevant Order plans) in column (3) of that Schedule.

Network Rail must provide reasonable access for pedestrians going to or from premises abutting on a road affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

Network Rail must not exercise the powers conferred by this article without first consulting the road works authority.

Traffic regulation

—(1) Subject to the provisions of this article, Network Rail may, in connection with the exercise of the powers of this Order, at any time prior to the expiry of 12 months from completion of the authorised works—

provide in the manner specified in Part 1 of Schedule 4 for the waiting, loading and unloading without payment of service vehicles and vehicles of the emergency services on the road specified in columns (1) and (2) of that Part and as described in relation to the road in column (3);
make provision for the exemption, in the manner specified in Part 2 of Schedule 4, from the existing prohibition of vehicular access on the road specified in columns (1) and (2) and as described in relation to the road in column (3);
provide in the manner specified in Part 3 of Schedule 4 for the waiting, placing and use of mobile cranes and associated vehicles and equipment;
revoke in whole or in part any traffic regulation order in so far as the revocation is consequential on any prohibition, restriction or other provision made under this paragraph.

Network Rail shall not exercise the powers of this article unless it has given not less than 12 weeks' notice in writing of its intention so to do to the Assistant Chief Constable – Local Policing West of Police Scotland.

Any prohibition, restriction or other provision made by Network Rail under this article shall—

have effect as if duly made by the traffic authority as a traffic regulation order, and
as regards provision made under paragraph (1)(c), shall not require consent under section 58 of the 1984 Act (control of obstructions in roads),

and the instrument by which it is effected may specify savings to which the prohibition, restriction or other provision is subject which are in addition to any exceptions provided for in Schedule 4 to this Order.

Any prohibition, restriction or other provision made under this article may be varied or revoked from time to time by subsequent exercises of the powers of this article by Network Rail (whether or not prior to the expiry of the period of 12 months referred to in paragraph (1)).

In this article “traffic regulation order” means a traffic regulation order made under the Road Traffic Regulation Act 1984⁽¹³⁸⁾.

Suspension of private rights of way

—(1) Subject to paragraph (7), all private rights of way over land of which Network Rail takes temporary possession under article 19 will be suspended and unenforceable for as long as Network Rail remains in lawful possession of the land.

(2) All private rights of way over Citizen Lane (shown numbered S1 on the Order plans) will be suspended and unenforceable for as long as Anchor Lane is temporarily stopped up under article 10.

Network Rail must compensate any person who suffers loss or damage arising from the suspension under this article of any private right of way to which that person is entitled.

Any dispute as to a person’s entitlement to compensation under paragraph (3), or as to the amount of the compensation is to be determined under the 1963 Act.

This paragraph does not apply in relation to any right of way to which section 224 or 225 of the 1997 Act (extinguishment of rights of statutory undertakers etc.) applies.

Paragraphs (1) and (2) are to have effect subject to any agreement made (whether before or after this Order comes into force) between Network Rail and the person entitled to the private right of way.

Network Rail may, at any time before or after temporary possession of any land is taken, determine that any right of way specified in the determination is capable of being exercised, in whole or to such extent as may be specified in the determination, compatibly with the temporary use of the land under this Order, and that paragraph (1) is not to apply to that right or is only to apply to the extent specified in the determination.

Notice of a determination under paragraph (7) must be posted on the relevant land throughout the period that Network Rail remains in possession of the land.

Discharge of water

—(1) Network Rail may use any available watercourse or any public sewer or drain for the drainage of water, and for that purpose may—

lay down, take up and alter pipes; or

make openings into, and connections with the watercourse, public sewer or drain,

on any land within the Order limits.

Network Rail must not discharge any water into any artificial watercourse, or any public sewer or drain, except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as the person may reasonably impose but must not be unreasonably withheld and is deemed to be given unless within 14 days of the person receiving Network Rail’s written request for consent Network Rail receives notification in writing that the person to whom the artificial watercourse, public sewer or drain belongs is withholding consent.

Network Rail must not make any opening into any public sewer or drain except in accordance with plans approved by, and under the superintendence (if provided) of, the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld and is deemed to be given unless within 14 days of the person receiving Network Rail’s written request for approval Network Rail receives notification in writing that the person to whom the sewer or drain belongs is withholding consent.

Network Rail must take such steps as are reasonably practicable to secure that any water discharged under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.

Any difference under this article arising between Network Rail and the owner of an artificial watercourse or a public sewer or drain must, unless the parties otherwise agree, be determined by arbitration.

⁽¹³⁸⁾ 1984 c.27.

In this article—

“public sewer or drain” means a sewer or drain which belongs to Scottish Water, a private provider who has made an agreement with Scottish Water under section 1(2)(b) of the Sewerage (Scotland) Act 1968⁽¹³⁹⁾ (duty of local authority to provide sewerage for their area) or a roads authority; and

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

Safeguarding works to buildings

—(1) Subject to the provisions of this article, Network Rail may at its own expense and from time to time carry out such works of the sort described in paragraph (2) as Network Rail considers to be necessary or expedient.

(2) The works referred to in paragraph (1) are safeguarding works, whether within or outside the Order limits, to any building situated wholly or partly on land within those limits.

Safeguarding works may be carried out—

at any time before or during the construction of any part of the authorised works; or

at any time up to the end of the period of five years beginning with the date of completion of the authorised works.

Schedule 5 has effect.

Network Rail must compensate the owners and occupiers of any building or land in relation to which the powers conferred by this article and Schedule 5 have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

Where—

safeguarding works to a building are carried out under this article; and

within the period of 12 years after the date of completion of the authorised works it appears that the safeguarding works are inadequate to protect the building against damage caused by the construction or operation of the authorised works,

Network Rail must compensate the owners and occupiers of the building for any damage sustained by them.

Nothing in this article relieves Network Rail from any liability to pay compensation under the Lands Clauses Acts.

Any dispute as to a person’s entitlement to compensation under paragraph (5) or as to the amount of compensation is determined under the 1963 Act.

In this article and Schedule 5 “safeguarding works”, in relation to a building, means—

underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, operation or maintenance of the authorised works; and

any works the purpose of which is to remedy any damage which has been caused to the building by the construction, operation or maintenance of the authorised works.

PART 3

LAND

Powers of acquisition

Application of Lands Clauses Acts

—(1) The Lands Clauses Acts, except sections 15, 16, 18, 20 to 60, 62 to 66, 83 to 88, 90, 116, 120 to 124, 130, 131, 135, 139, 142 and 143 of the 1845 Lands Act and the Lands Clauses Consolidation Acts Amendment Act

⁽¹³⁹⁾ 1968 c. 47.

1860⁽¹⁴⁰⁾, are incorporated with this Order so far as applicable for the purposes of and not inconsistent with, or varied by, the provisions of this Order.

(2) In construing the Lands Clauses Acts as so incorporated—

this Order is deemed to be the special Act;

Network Rail is deemed to be the promoter of the undertaking or the company; and

the authorised works are deemed to be the works or the undertaking;

section 81 of the 1845 Lands Act has effect as if the word “reasonable” were inserted before the first and third occurrences of the word “expenses” and before the word “charges”;

section 89 of the 1845 Lands Act has effect as if after the words “or hinder the promoters of the undertaking from entering upon or taking possession of the same,” there were inserted the words “or the land is unoccupied, or the owner is temporarily absent”.

Power to acquire land

Network Rail is authorised to acquire compulsorily such of the land shown on the Order plans within the Order limits as

is specified in columns (1), (2) and (3) of Part 1 of Schedule 6; and

may be required for the purposes specified in relation to that land in column (4) of that Part.

Acquisition of subsoil or rights

—(1) In exercise of the powers conferred by article 16 Network Rail may, as regards any land authorised to be acquired under that section, compulsorily acquire—

so much of the subsoil of the land; or

such servitudes or other rights in, on or over the land,

as may be required for any purpose for which the land may be acquired under that section.

Servitudes and other rights may be acquired under paragraph (1) by creating them as well as by acquiring servitudes and other rights already in existence.

Article 20 and paragraph 20 of Schedule 15 to the 1997 Act (which provide in certain circumstances for the owner of the land to require the purchase of the whole rather than part of that property) do not apply to any compulsory acquisition under this article or under article 19.

Subject to paragraphs (5) and (6), the Lands Clauses Acts, as incorporated with this Order, has effect with the modifications necessary to make them apply to the compulsory acquisition of new rights under this article or under article 19 as they apply to the compulsory acquisition of land.

As so having effect, references in those Acts to land are to be treated as, or as including, references to new rights or to the land over which new rights are to be exercisable.

Section 61 of the 1845 Lands Act (estimation of purchase money and compensation) applies to the compulsory acquisition of such a right as if for the words from “value” to “undertaking” there were substituted the words “extent (if any) to which the value of the land in or over which the right is to be acquired is depreciated by the acquisition of the right”.

Purchase of specific new rights over land

—(1) In connection with the authorised works Network Rail may acquire compulsorily in, on or over any of the land shown on the Order plans within the Order limits and specified in columns (1), (2) and (3) of Part 2 of Schedule 6, such servitudes or other new rights as it requires for the purposes mentioned in column (4) of that Part.

(2) The powers conferred by this article are additional to the powers conferred by article 17.

Temporary use of land for construction of works

—(1) Network Rail may, in connection with the carrying out of the authorised works —

⁽¹⁴⁰⁾ 1860 c.106.

enter upon and take temporary possession of—

plots nos. 2A, 2B and 2C to the extent and for the purposes set out in Part 3 of Schedule 9;
any land within the Order limits for the purposes of the authorised works;

remove any apparatus or vegetation from that land;

remove any building from any land within the Order limits; and

construct temporary works (including the provision of apparatus or means of access) and buildings on the land.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

Network Rail may not, without the agreement of the owners of the land, remain in possession of any land under this article—

in the case of plots nos. 2A, 2B and 2C, except in accordance with Part 3 of Schedule 9; and

in the case of any land within the Order limits, after the end of the period of one year beginning with the date of completion of the authorised works.

(4) Subject to paragraph (5), before giving up possession of land of which temporary possession has been taken under this article, Network Rail must —

in the case of plots nos. 2A, 2B and 2C, comply with any agreement made under paragraph 3 of Part 3 of Schedule 9; and

subject to sub-paragraph (a), remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but Network Rail is not required to replace a building removed under this article.

(5) Paragraph (4) does not require Network Rail to restore—

(except under paragraph (4)(a)) any works connected with boundary walls adjoining the authorised works,
any underpinning or strengthening works carried out under this Order, or
any permanent works for the provision of statutory undertakers' apparatus.

Network Rail must compensate the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is determined under the 1963 Act.

Without prejudice to article 25, nothing in this article affects any liability to pay compensation under any enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

Where Network Rail takes possession of land under this article, it is not required to acquire the land or any interest in it.

Partial acquisition using notice to treat procedure

—(1) A person may, within 28 days of service of a notice to treat in respect of a partial acquisition, object to the partial acquisition.

(2) An objection must—

be served on Network Rail;

state that the person is willing and able to sell to Network Rail the whole of the house, building, factory or other land concerned; and

identify the land that the person is so willing and able to sell.

Network Rail must deal with an objection by—

agreeing to acquire the land identified in the objection by notifying the objector to that effect (in which case the notice to treat is deemed to cover the land identified in the objection, regardless of whether any of it is outwith the Order limits);

withdrawing the notice to treat by notifying the objector to that effect; or

referring the objection to the tribunal for determination under article 21 and notifying the objector that it has been so referred.

If Network Rail fails to act under paragraph (3) within 3 months of an objection being served, the notice to treat is to be treated as withdrawn.

Severance disputes (notice to treat procedure): Lands Tribunal

—(1) The tribunal, on receiving a referral under article 20(3)(c), must consider—

in the case of a partial acquisition of a house, building or factory, if some or all of the land in the notice to treat (with or without some or all of the remainder of the land identified in the objection) can be acquired without material detriment to the remainder of the land identified in the objection;

in the case of a partial acquisition of a house with a park or garden, if some or all of the land in the notice to treat (with or without some or all of the remainder of the land identified in the objection) can be acquired without seriously affecting the amenity or convenience of the house.

If the tribunal determines—

in the case of a partial acquisition of a house, building or factory, that all of the land in the notice to treat can be acquired without material detriment to the remainder of the land identified in the objection; or

in the case of a partial acquisition of a house with a park or garden, that all of the land in the notice to treat can be acquired without seriously affecting the amenity or convenience of the house,

the notice to treat is to have effect as originally served.

If the tribunal does not determine as described in paragraph (2), it must determine the land which Network Rail ought to acquire, being—

some of the land in the notice to treat, or

some or all of the land in the notice to treat with the addition of some or all of the remainder of the land identified in the objection,

and the notice to treat is deemed to cover that land (regardless of whether any of it is outwith the Order limits).

Network Rail may withdraw a notice to treat within 6 weeks of a tribunal determination under paragraph (3) by notifying the objector to that effect.

Compensation

Disregard of certain interests and improvements

—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

any interest in land; or

any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

In paragraph (1) “relevant land” means—

the land acquired from the person concerned; or

any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

—(1) In determining the amount of compensation or purchase money payable to any person in respect of an interest in land acquired under this Order, the tribunal must set off against the value of the land so acquired any

increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the authorised works.

(2) For the purposes of this article any reduction in expenditure that would have been required in order to comply with an obligation under any enactment with respect to any land is to be treated as an enhancement in the value of an interest in the land.

Compensation: partial acquisition etc

—(1) Compensation for a partial acquisition must include compensation for any loss sustained by the owner due to the severance of the house, building, factory or other land (in addition to the value of the interest to be acquired).

(2) Where Network Rail withdraws a notice to treat under article 20(4), the owner of the land which was subject to that notice is entitled to be compensated for any loss arising as a result of the giving and withdrawing of the notice (with any dispute about entitlement to, or amount of, such compensation to be determined by the Lands Tribunal).

No double recovery

Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Time limit for making compensation claims

A claim for compensation in respect of land which is the subject of a general vesting declaration must be submitted within two years from the date on which Network Rail served notice under paragraph 4 of Schedule 15 to the 1997 Act (notice stating the effect of the declaration).

Supplementary

Power to enter land for survey, etc.

—(1) Network Rail may, in relation to any land within the Order limits, for the purposes of this Order —
survey or investigate the land;

without prejudice to the generality of sub-paragraph (a), make trial holes in such positions as Network Rail thinks fit on the land to investigate the nature of the surface layer and subsoil and remove water and soil samples;

without prejudice to the generality of sub-paragraph (a), carry out archaeological investigations on the land;

take steps to protect or remove any flora or fauna on the land where the flora or fauna may be affected by the carrying out of the authorised works;

place on, leave on and remove from the land apparatus for use in connection with the exercise of any power conferred by sub-paragraphs (a) to (d); and

enter on the land for the purpose of exercising any power conferred by sub-paragraphs (a) to (e).

No land may be entered, or apparatus placed or left on or removed from land, under paragraph (1), unless—

on the first occasion at least seven days’; and

on subsequent occasions not less than three days’,

notice has been served on every owner and occupier of the land.

Any person entering land under this article on behalf of Network Rail—

must, if so required, before or after entering the land produce written evidence of authority to do so; and

may enter with such vehicles and equipment as are necessary for the purpose of exercising any of the powers conferred by paragraph (1).

No trial hole is to be made under this article in a carriageway or footway without the consent of the road works authority, but such consent must not be unreasonably withheld and is deemed to be given unless within 14 days of the road works authority receiving Network Rail’s written request for consent Network Rail receives notification in writing that the roads authority is withholding consent.

Any question as to whether consent has been unreasonably withheld under paragraph (4) must, unless the parties otherwise agree, be referred to arbitration.

Network Rail must pay compensation for any damage occasioned, by the exercise of the powers conferred by this article, to the owners and occupiers of the land.

Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of compensation, must be determined under the 1963 Act.

Section 89 of the 1845 Lands Act as incorporated by (application of Lands Clauses Acts) applies to entry on land under this article.

Further powers of entry

- (1) At any time after notice to treat has been served in respect of—
any land; or
any servitudes or other rights in, on or over land,

which may be purchased compulsorily under this Order, Network Rail may enter on and take possession of or use the land.

No land may be entered under paragraph (1) unless at least 28 days' notice has been given to the owner and occupier of the land specifying the land, or part of the land, of which possession is to be taken or which is to be used.

Compensation for the land of which possession is taken under this article, and interest on the compensation awarded, must be payable as if possession had been taken under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947⁽¹⁴¹⁾.

Nothing in this article affects the operation of section 48 of the Land Compensation (Scotland) Act 1973⁽¹⁴²⁾.

Persons under disability may grant servitudes, etc.

—(1) Persons empowered by the Lands Clauses Acts to sell and convey or dispose of land may grant to Network Rail a servitude, right or privilege required for any of the purposes of this Order in, over or affecting any such land.

(2) A person may not under this article grant a servitude, right or privilege of water in which persons other than the grantor have an interest.

Time limit for exercise of powers of acquisition

—(1) The powers conferred by articles 16 and 17 for the compulsory acquisition of land and new rights cease after five years beginning on the date on which this Order comes into force.

(2) The powers conferred by articles 16, 17 and 18 for the compulsory acquisition of such land and servitudes or other rights are deemed for the purpose of this article, to have been exercised in relation to any land, servitude or right if before the expiry of five years beginning on the date on which this Order comes into force—

notice to treat has been served; or

a declaration has been executed under paragraph 1 of Schedule 15 to the 1997 Act in respect of that land, servitude or right.

Time limit on validity of notices to treat

Section 78 of the Planning and Compensation Act 1991⁽¹⁴³⁾ applies in relation to a notice to treat served under section 17 of the 1845 Lands Act as incorporated with this Order.

⁽¹⁴¹⁾ 1947 c.42.

⁽¹⁴²⁾ 1973 c. 56.

⁽¹⁴³⁾ 1991 (c. 34).

General vesting declarations

—(1) Subject to paragraph (3), section 195 of, and Schedule 15 to, the 1997 Act (which make provision for the vesting of land subject to compulsory purchase orders) apply to the compulsory acquisition of land under this Order as if this Order were a compulsory purchase order so as to enable Network Rail to vest by general vesting declaration any land authorised to be compulsorily acquired under this Order.

- (2) The notice required by paragraph 2 of that Schedule (as so applied) must be a notice that this Order has come into force;
containing the particulars specified in sub-paragraph (1) of that paragraph;
published and served in accordance with the requirements of paragraphs 6 to 6C of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947⁽¹⁴⁴⁾ (publication and service of notice of confirmation of compulsory purchase orders); and
given at any time after this Order comes into force.

In its application to this Order paragraph 15 of Schedule 15 to the 1997 Act has effect as if—
in sub-paragraph (2)(a), for the words “the statutory maximum” there were substituted the words “level 3 on the standard scale”; and
sub-paragraph (2)(b) was omitted.

PART 4

MISCELLANEOUS AND GENERAL

Registration of new rights

—(1) A servitude or other right acquired by Network Rail under article 17 or 18 is to be treated, unless otherwise expressly stated in the instrument by which it is created, for all purposes as benefiting the land from time to time held by Network Rail for the purpose of its railway undertaking.

(2) Notwithstanding section 75 of the 2003 Title Act, where a servitude falls to be treated as mentioned in paragraph (1) above, the deed by which it is created is effective whether or not it is registered against the benefited property.

Timetables for consultation and further decisions and consents

—(1) Whenever Network Rail is required by this Order to consult before exercising a power under this Order, it may notify the consultee in writing that a response is required within a specified period which must not be less than 14 days after the notification, and in the absence of a response within that period Network Rail may exercise the power to which the notification relates.

- (2) The timetable in paragraph (3) has effect as regards any application by Network Rail for, and the grant of—
- (a) approval of a matter specified in conditions relating to deemed planning permission, if the planning authority confirms that it is not required under regulation 27A of the 2011 Regulations (as inserted by article 38 of this Order) to seek additional information in respect of the application for approval of that matter;
 - (b) any building warrant relating to the authorised works; and
 - (c) any other consent where Network Rail and the consenting body agree in writing that this article is to apply.

The timetable is as follows:—

<i>Action no.</i>	<i>Description</i>	<i>Latest date for action to take place</i>
1	Network Rail’s application	

⁽¹⁴⁴⁾ 1947 c.42. Paragraphs 6A to 6C were inserted by the Title Conditions (Scotland) Act 2003 (asp 9), section 109, which was amended by SSI 2003/507.

2	Consenting body's request (if any) for further information	7 days after action no. 1
3	Network Rail's response to action no. 2	7 days after action no. 2
4	Consenting body's decision	28 days after action no. 1

Unless otherwise agreed in writing by Network Rail and the consenting body, in the absence of a decision within the timetable in paragraph (3) Network Rail's application is to be deemed to have been granted.

In this article—

“consent” includes anything (however called) that constitutes permission, approval or the grant of an application to which this article applies, and

“consenting body” means any body which has the function of giving consent.

Statutory undertakers, etc.

The provisions of Schedule 8 have effect in relation to the authorised works.

Protective provisions

Schedule 9 (which contains protective provisions for the benefit of specified persons) has effect in relation to the authorised works.

Protection of the water environment

Nothing in this Order affects the operation of the Water Environment (Controlled Activities) (Scotland) Regulations 2011⁽¹⁴⁵⁾ in relation to the authorised works.

Environmental assessment of reserved matters

—The 2011 Regulations apply in respect of deemed planning permission as if-

(a) in the definition of “application for multi-stage consent” after paragraph (a) there were inserted-

“(aa) a condition imposed on planning permission deemed to be granted by a direction made under section 57(2A), where (in terms of the condition) that approval, consent or agreement must be obtained from the planning authority before all or part of the development permitted by the deemed planning permission may be begun;” and

(b) after regulation 27 there were inserted—

“27A. Where—

(a) an application for multi-stage consent which is before a planning authority or the Scottish Ministers for determination relates to planning permission for EIA development;

(b) a report referred to by the developer as an EIA report has previously been submitted by the developer in relation to the development;

(c) it appears to the planning authority or Scottish Ministers, as the case may be, that the development may have significant effects on the environment that have not previously been identified; and

(d) the developer has not submitted additional information in respect of those effects together with the application for multi-stage consent,

the planning authority or the Scottish Ministers must seek additional information from the developer in accordance with regulation 23(2) in respect of such effects.”.

.

..

Real burdens and servitudes, etc. affecting land acquired or used

—(1) Subject to paragraph (9), the provisions of section 106 of the 2003 Title Act (extinction of real burdens and servitudes affecting land which has been compulsorily acquired) apply to any land acquired under or by virtue of

⁽¹⁴⁵⁾ SSI 2011/209.

this Order, whether compulsorily or by agreement, as if it were acquired compulsorily by virtue of a compulsory purchase order.

(2) Where Network Rail takes possession of land under article 19 or 28 any servitude or real burden over that land is unenforceable for the period of possession.

“Period of possession” means the period beginning when Network Rail enters and takes possession and ending—
where temporary possession is taken under article 19, when Network Rail gives up temporary possession,
where possession is taken under article 29—
on the registration of the relevant conveyance, or
where the notice to treat concerned is withdrawn or otherwise ceases to have effect.

Any person who suffers loss by the extinguishment or suspension of any private right of way under paragraph (2) is entitled to compensation.

Any dispute as to a person’s entitlement to compensation under paragraph (4), or as to the amount of compensation, is determined under the 1963 Act.

Paragraph (2) has effect subject to—

- any agreement made (whether before or after this Order comes into force) between Network Rail and the person entitled to the benefit of the servitude or real burden;
- any determination made by Network Rail limiting the application of paragraph (2) to the extent specified in the determination.

A determination relating to paragraph (3) may be made at any time before or after temporary possession of any land is taken.

Notice of a determination under this section must be given to the person entitled to the right of way to which it relates as soon as practicable after the making of the determination.

This article does not apply in relation to any right of way to which section 224 or 225 of the 1997 Act (extinguishment of rights of statutory undertakers etc.) or paragraph 2 of Schedule 8 applies.

Defence to proceedings in respect of statutory nuisance

—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990⁽¹⁴⁶⁾ (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

the defender shows that the nuisance—

relates to premises used by Network Rail for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to authorised works and that the nuisance is attributable to the carrying out of authorised works in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site), of the Control of Pollution Act 1974⁽¹⁴⁷⁾; or

is a consequence of the construction or maintenance of the authorised works and that it cannot reasonably be avoided; or

the defender shows that the nuisance is a consequence of the use of the authorised works and that it cannot reasonably be avoided.

Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by Network Rail for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works.

⁽¹⁴⁶⁾ 1990 c.43. There are amendments to this Act which are not relevant to this Order.

⁽¹⁴⁷⁾ 1974 c. 40. Section 61 was amended by paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43), Schedule 24 to the Environment Act 1995 (c. 25) and paragraph 10 of Schedule 6 to the Building (Scotland) Act 2003 (asp. 8). Section 65 was amended by paragraph 15(4) of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

The provisions of this article do not affect the application to the authorised works of section 122 of the Railways Act 1993⁽¹⁴⁸⁾ (statutory authority as a defence to actions in nuisance) or any rule of common law having similar effect.

Certification of plans, etc.

7.— (1) Network Rail must, at the times specified in paragraph (2), submit copies of the documents mentioned in that paragraph to the Scottish Ministers for certification that they are the documents they purport to be; and a document so certified, or a document certified by the Scottish Ministers as being a copy of a document so certified, is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(2) The documents and times for submission referred to in paragraph (1) are as set out in the following table:

TABLE

<i>Document</i>	<i>Time for submission for certification</i>
Order plans	As soon as practicable after the Scottish Ministers determine to make this Order
Environmental statement	As soon as practicable after the Scottish Ministers determine to make this Order
ES addendum	As soon as practicable after the Scottish Ministers determine to make this Order

Planning permission: operational land

Deemed planning permission is to be treated as a specific planning permission for the purposes of section 216(3)(a) of that Act (cases in which land is to be treated as operational land for the purposes of that Act).

Notification of the date of completion of the authorised works

Network Rail shall give notice to the planning authority of the date of completion of the authorised works within seven days after it occurs.

Dispute resolution

— (1) Any difference under any provision of this Order, unless otherwise provided for, must (in default of other agreed dispute resolution procedure) be referred to, and settled by, a single arbiter to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.

(3) An arbiter appointed under this article is entitled to state a case for the opinion of the Court of Session pursuant to section 3 of the Administration of Justice (Scotland) Act 1972⁽¹⁴⁹⁾.

(3) Section 108 of the 1996 Act (right to refer disputes to adjudication) and any regulations made under that section do not apply to any dispute under this Order (whether or not it is a dispute of the sort described in paragraph (1)).

In this article “the 1996 Act” means the Housing Grants, Construction and Regeneration Act 1996⁽¹⁵⁰⁾

Notices, etc

—(1) This article applies to any notice or other document required or authorised to be served by or on behalf of Network Rail for the purposes of this Order (an “Order document”).

⁽¹⁴⁸⁾ 1993 c. 43.

⁽¹⁴⁹⁾ 1972 c. 59.

⁽¹⁵⁰⁾ 1996 c. 53.

(2) Notwithstanding anything in any enactment, an Order document is to be deemed to be valid if it is validated in accordance with rules made under paragraph (3).

(3) Network Rail may, with the approval of the Scottish Ministers, make rules providing for the preparation, verification and validation of Order documents.

The terms of any rules made under paragraph (3) shall be proved by the production of a copy of the rules sealed with Network Rail's corporate seal or certified by Network Rail's company secretary as being a true copy of the rules as made.

Paragraph (3) does not prevent Network Rail from proving the validity of an Order document that has been validated other than in accordance with rules made under paragraph (3).

Any notice or other document required or authorised to be served for the purposes of this Order may be served in any of the ways provided by section 20 of the 2007 Act.

British Transport Police: powers of entry

— (1) The powers and privileges of a constable of the British Transport Police are exercisable—
in relation to any land in respect of which Network Rail is entitled to possession under article 19 or 28, and
to enforce any prohibition, restriction or other provision made by Network Rail (under article 10 in relation to any road within the Order limits or specified in Schedule 3,

as if the land were of a category specified in section 31(3) of the Railways and Transport Safety Act 2003⁽¹⁵¹⁾, and accordingly the power to enter such land may be exercised without a warrant.

In this section “the British Transport Police” means the British Transport Police Force established by section 20 of the Railways and Transport Safety Act 2003.

SCHEDULES

SCHEDULE 1

Article 4

SCHEDULED WORKS

<i>Sheet of Order plans</i> (1)	<i>Building</i> (2)	<i>Number of land shown on Order plans</i> (3)
In the local government area of the City of Glasgow—		
2	Demolition of Consort House, 12 West George Street	1
2	Demolition of extension of the Millennium Hotel, George Square	1, 5, 6
2	Demolition of existing canopy in Dundas Street adjoining west elevation of Glasgow Queen Street Station	7, 15, 16, 19
2	Construction of new station building, Queen Street Station,	1, 7, 8, 11, 15 and land adjoining plot no.1 which is

⁽¹⁵¹⁾ 2003 c. 20.

George Square, within the area outside the Order limits
shaded grey on sheet no. 4 of
the Order plans

SCHEDULE 2 ANCILLARY WORKS

Article 5

1. Bridges, subways, stairs and means of access.
2. Junctions and communications with, and widening and improvement of, any road, path or way.
3. Buildings, offices, portable cabins and hoardings.
4. Works for the provision (for Network Rail or any other person) of apparatus, plant or machinery and for the accommodation of such works, including telecommunications and radio masts, communications equipment, mains, sewers, pipes, drains, cables, lights, conduits, culverts and substations, safety equipment and related apparatus.
5. Works for the alteration or demolition of any building or structure, including works for its strengthening, underpinning or protection.
6. Works or operations to stabilise the condition of any land or for the purposes of flood prevention.
7. Works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses.
8. Works to alter the position of any existing apparatus or any existing street furniture, including the alteration of the position of existing works of the sort described in paragraph 4 above.
9. Without prejudice to the generality of paragraph 8 above, works to alter the position of any railway track or other railway apparatus.
10. Works for the benefit or protection of premises affected by the authorised works (including the installation of traffic restraint systems).
11. The removal by Network Rail of any works constructed by it pursuant to this Order which have been constructed as temporary works or which it no longer requires.
12. Such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with, or in consequence of, the construction of the authorised works.

SCHEDULE 3

Article 10

TEMPORARY STOPPING UP, ETC. OF ROADS OUTSIDE ORDER LIMITS

<i>Sheet of Order plans</i> (1)	<i>Road to be stopped up</i> (2)	<i>Extent of stopping up</i> (3)
In the local government area of the City of Glasgow—		
3	Anchor Lane	Between points T1 and T2
2	West George Street	Between points T3 and T4

SCHEDULE 4

Article 11

TRAFFIC REGULATION

PART 1

PARKING PLACES FOR WAITING AND LOADING/UNLOADING

Parking places for service vehicles waiting, loading or unloading at any time and for vehicles of the emergency services

<i>Area</i>	<i>Street</i>	<i>Extent</i>
(1)	(2)	(3)
City of Glasgow	St Vincent Place	Between points TR3 and TR4

PART 2

EXEMPTION FROM PROHIBITION OF ACCESS

No passage of vehicular traffic

<i>Area</i>	<i>Street</i>	<i>Extent</i>
(1)	(2)	(3)
City of Glasgow	West Nile Street, West George Street, Nelson Mandela Place	Exemption from prohibition of entry for any vehicle connected with any building operations, road works or other works (including demolition) associated with the authorised works

PART 3

WAITING, PLACING AND USE OF VEHICLES AND EQUIPMENT

Waiting, placing and use in street of mobile cranes and associated vehicles and equipment

<i>Area</i>	<i>Street</i>	<i>Extent</i>
(1)	(2)	(3)
City of Glasgow	Dundas Street	Waiting, placing and use of mobile cranes and associated vehicles and equipment on the east side of the street between points TR1 and TR2

SCHEDULE 5

Article 14(4)

SAFEGUARDING WORKS: PROCEDURE

13. For the purpose of determining how the powers conferred by article are to be exercised, Network Rail may enter and survey any building falling within paragraph (2) of that article and any land belonging to the building and may affix to, place or leave on and remove from the building or land apparatus for use in connection with the survey.

14. For the purpose of carrying out safeguarding works to a building under article 14, Network Rail may (subject to paragraphs 3 and 4)—
enter the building and any land belonging to it; and
where the works cannot be carried out reasonably conveniently without entering land adjacent to the building, enter the adjacent land.

15. Before exercising—
a right under article 14 to carry out safeguarding works to a building;
a right under paragraph 1 to enter a building or land;
a right under paragraph 2(a) to enter a building or land; or
a right under paragraph 2(b) to enter land,

16. Network Rail must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' written notice of its intention to exercise that right; and in a case falling within sub-paragraph (a) or (c) the notice must also specify the safeguarding works proposed to be carried out.

17. Where notice is served under paragraph 3(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a written counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the safeguarding works or to enter the building or land to be determined by arbitration.

SCHEDULE 6
ACQUISITION OF LAND, ETC.

Articles 16 and 18

PART 1
ACQUISITION OF LAND

<i>Location</i> (1)	<i>Sheet of Order plans</i> (2)	<i>Number of land shown on Order plans</i> (3)	<i>Purposes for which land to be acquired</i> (4)
In the local government area of the City of Glasgow—			
Glasgow Queen Street Station, Consort House, 12-16 West George Street, Millennium Hotel extension, George Square and footway, West George Street	2	1	Re-development of Glasgow Queen Street Station
Footway, Dundas Street and West George Street	2	8, 11	Re-development of Glasgow Queen Street Station
Footway, Dundas Street	2	15	Re-development of Glasgow Queen Street Station

PART 2
ACQUISITION OF RIGHTS

<i>Location</i> (1)	<i>Sheet of Order plans</i> (2)	<i>Number of land shown on Order plans</i> (3)	<i>Purposes for which rights may be acquired</i> (4)
In the local government area of the City of Glasgow—			
Footway and private roadway (former North Queen Street)	2	3, 4	Installation of vehicle restraint system and access for renewal and maintenance thereafter
TAWS04 – Network Rail (Glasgow Queen Street Station) Order		231	

<i>Location (1)</i>	<i>Sheet of Order plans (2)</i>	<i>Number of land shown on Order plans (3)</i>	<i>Purposes for which rights may be acquired (4)</i>
Footway (Dundas Street and West George Street)	2	10, 12	Installation of vehicle restraint system and access for renewal and maintenance thereafter
Bridge and footway (Dundas Street)	2	17, 20, 21	To oversail during construction of the authorised works
Footway (Dundas Street)	2	19	Installation of vehicle restraint system and access for renewal and maintenance thereafter
32 – 50 Dundas Street	2	23	To oversail during construction of the authorised works
32 – 50 Dundas Street	2	24	Construction of the authorised works and connected fixings, flashings and alteration of adjacent walls Alteration of existing, construction of new and use and maintenance of joint roof drainage To oversail during construction of the authorised works

SCHEDULE 7

Article 19

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>Location</i> (1)	<i>Sheet of Order</i> <i>plans</i> (2)	<i>Number of land</i> <i>shown on plans</i> (3)	<i>Purposes for which temporary</i> <i>possession may be taken</i> (4)
In the local government area of the City of Glasgow—			
Millennium Hotel, George Square	2	2A, 2B	Carrying out works to separate the hotel buildings.
Millennium Hotel, George Square	2	2C	Carrying out works to separate the hotel buildings and associated working space.

STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc. on land acquired

18.—(1) Subject to the provisions of this Schedule, sections 224 to 227 of the 1997 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) apply in relation to any land which has been acquired under this Order, or which is held by Network Rail and is appropriated or used (or about to be used) by it for the purposes of this Order or for purposes connected with this Order.

(2) All such other provisions of the 1997 Act as apply for the purposes of the provisions applied by paragraph 1 above (including sections 228 to 231, which contain provisions consequential on the extinguishment of any rights under sections 224 and 225, and sections 232(2) to (4), 233 and 235, which provide for the payment of compensation) have effect accordingly.

In the provisions of the 1997 Act, as applied by sub-paragraphs (1) and (2) above—

references to the purpose of carrying out any development with a view to which land was acquired or appropriated are references to the purpose of carrying out the authorised works; and

references to land acquired or appropriated as mentioned in section 224(1) of the 1997 Act are references to land acquired, appropriated or used as mentioned in sub-paragraph (1) above.

Where any apparatus of a utility undertaker or of a public communications provider is removed in pursuance of a notice or order given or made under section 224, 225 or 226 of the 1997 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

Sub-paragraph (4) above does not apply in the case of the removal of a public sewer, but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

the owner or occupier of premises the drains of which communicated with that sewer; or

the owner of a private sewer which communicated with that sewer,

is entitled to recover from Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the person's drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

The provisions of the 1997 Act mentioned in sub-paragraphs (1) and (2) above, as applied by those sub-paragraphs, do not have effect in relation to apparatus as respects which Part IV of the 1991 Act applies.

In this paragraph—

“gas transporter” has the meaning given by section 7(1) of the Gas Act 1986⁽¹⁵²⁾;

“public communications provider” has the meaning given by section 151(1) of the Communications Act 2003⁽¹⁵³⁾; and

“utility undertaker” means a person who is—

authorised by any enactment to carry on an undertaking for the supply of water;

a gas transporter; or

the holder of a licence under section 6 of the Electricity Act 1989⁽¹⁵⁴⁾,

and who is, or is deemed to be, a statutory undertaker within the meaning of section 214 of the 1997 Act.

⁽¹⁵²⁾ 1986 c. 44.

⁽¹⁵³⁾ 2003 c. 21.

⁽¹⁵⁴⁾ 1989 c. 29.

Existing agreements

19.—(1) Nothing in this Schedule affects the operation of any enactment or agreement in force or entered into before the date on which this Order is made and regulating the relations between Network Rail and a statutory undertaker in respect of any apparatus laid or erected in land belonging to Network Rail.

(3) In this paragraph “statutory undertaker” has the same meaning as in the 1984 Act.

PROTECTIVE PROVISIONS

PART 1

FOR PROTECTION OF SPECIFIED UNDERTAKERS

20.—(1) For the protection of the specified undertakers the provisions of this Part of this Schedule, except in so far as otherwise agreed in writing between Network Rail and any specified undertaker, have effect.

(2) The provisions of paragraph 1 of Schedule 8 (apparatus of statutory undertakers, etc. on land acquired) do not apply in relation to apparatus to which this Part of this Schedule applies.

Nothing in this Part of this Schedule affects the operation of any enactment or agreement in force or entered into before the date on which this Order is made and regulating the relations between Network Rail and a specified undertaker in respect of any apparatus laid or erected in land belonging to Network Rail.

Interpretation

21. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable a specified undertaker to fulfil its statutory or licensed functions as effectively as is achievable using the apparatus which the alternative apparatus is to replace;

“apparatus” means—

in the case of a specified undertaker which is an electricity undertaker, electric lines or electrical plant (both as defined in the Electricity Act 1989⁽¹⁵⁵⁾) belonging to or maintained by that undertaker;

in the case of a specified undertaker which is a gas undertaker, mains, pipes or other apparatus belonging to, or maintained by, a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽¹⁵⁶⁾, for the purposes of gas supply;

in the case of a specified undertaker which is a water undertaker, mains, pipes or other apparatus belonging to, or maintained by the undertaker for the purposes of water supply; and

in the case of a specified undertaker which is a sewerage undertaker—

any drain or works vested in the undertaker under the Water Industry (Scotland) Act 2002⁽¹⁵⁷⁾; and

any sewer which is so vested,

(not being apparatus in respect of which the relations between Network Rail and the undertakers are regulated by the provisions of Part 4 of the 1991 Act) and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

(a) in the case of SPT, the fibre link cable;

"fibre link cable" means the fibre link communication cable vested in SPT linking Buchanan Bus Station, SPT's subway stations, Broomloan Depot and Consort House;

“notice” means notice in writing;

"SPT" means Strathclyde Partnership for Transport; and

⁽¹⁵⁵⁾ 1989 c.29, for the definitions of “electric line” and “electrical plant” see section 64 of that Act. The definition of “electrical plant” was amended by the Utilities Act 2000 (c.27), Schedule 6, Part 2, paragraph 38(3).

⁽¹⁵⁶⁾ 1986 c.44.

⁽¹⁵⁷⁾ 2002 asp 3.

“specified undertaker” means—

- (a) National Grid Gas plc (company no. 02006000) whose registered office is at 1-3 Strand, London WC2N 5EH;

Scotia Gas Networks PLC (company no. 04958135) whose registered office is at St Lawrence House, Station Approach, Horley, Surrey RH6 9HJ;

SP Power Systems Limited (company no. SC215841) whose registered office is at 1 Atlantic Quay, Robertson Street, Glasgow, Lanarkshire G2 8SP;

- (b) Scottish Water Limited (company no. SC207004) whose registered office is at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife KY11 8GG, and

Strathclyde Partnership for Transport whose principal office is at 131 St Vincent Street, Glasgow, G2 5JF in relation to the fibre link cable.

or any person succeeding any such company as a licence holder within the meaning of Part 1 of the Electricity Act 1989⁽¹⁵⁸⁾, a gas transporter within the meaning of Part 1 of the Gas Act 1986, a water undertaker within the meaning of the Water Industry (Scotland) Act 2002 or as a sewerage undertaker within the meaning of that Act; and “the specified undertaker” in relation to any apparatus means the specified undertaker to whom the apparatus belongs or by whom it is maintained.

Acquisition of apparatus

22. Notwithstanding any provision of this Order Network Rail must not acquire any apparatus other than by agreement.

Removal of apparatus

23.—(1) If, in the exercise of the powers conferred by this Order, Network Rail acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of a specified undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the specified undertaker.

(3) If, for the purpose of constructing any works in, on or under any land purchased, held, appropriated or used under this Order, Network Rail requires the removal of any apparatus placed in that land, it must give to the specified undertaker notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a specified undertaker reasonably needs to remove any of its apparatus) Network Rail must, subject to sub-paragraph (3), afford to the specified undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of Network Rail and thereafter for the maintenance of that apparatus.

If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of Network Rail, or Network Rail is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the specified undertaker must, on receipt of a notice to that effect from Network Rail, forthwith use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

Any alternative apparatus to be constructed in land of Network Rail under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the specified undertaker and Network Rail or in default of agreement settled by arbitration.

The specified undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration, and after the grant to the specified undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed with all reasonable despatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by Network Rail to be removed under the provisions of this Part of this Schedule.

Notwithstanding anything in sub-paragraph (5), if Network Rail gives notice to the specified undertaker that it desires itself to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will take place in any land of

⁽¹⁵⁸⁾ For the definition of “licence holder” see section 64 of that Act.

Network Rail, that work, instead of being executed by the specified undertaker, must be executed by Network Rail with all reasonable despatch under the superintendence, if given, and to the reasonable satisfaction of the specified undertaker.

Nothing in sub-paragraph (6) authorises Network Rail to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Alternative apparatus

24.—(1) Where, in accordance with the provisions of this Part of this Schedule, Network Rail affords to a specified undertaker facilities and rights for the construction and maintenance in land of Network Rail of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between Network Rail and the specified undertaker or in default of agreement settled by arbitration.

(4) In settling those terms and conditions in respect of the alternative apparatus to be constructed in or along any railway of Network Rail, the arbiter must—

give effect to all reasonable requirements of Network Rail for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of Network Rail or the operation of its railway undertaking; and

so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to, if any, the terms and conditions applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

If the facilities and rights to be afforded by Network Rail in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbiter less favourable on the whole to the specified undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbiter must make such provision for the payment of compensation by Network Rail to that undertaker as appears to the arbiter to be reasonable having regard to all the circumstances of the particular case.

Construction of authorised works

25.—(1) Not less than 28 days before commencing the construction of any work of the type referred to in paragraph 4(2) that is near to, or will or may affect, any apparatus the removal of which has not been required by Network Rail under paragraph 4(2), Network Rail must submit to the specified undertaker a plan, section and description of the work to be constructed.

(5) Any such work must be constructed only in accordance with the plan, section and description as submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made by the specified undertaker in accordance with sub-paragraph (3) for the alteration or otherwise for the protection of the apparatus, or for securing access to the apparatus, and the specified undertaker must be entitled by its officer to watch and inspect the construction of that work.

Any requirements made by the specified undertaker under sub-paragraph (2) must be made within a period of 14 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

If a specified undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by Network Rail, reasonably requires the removal of any apparatus and gives notice to Network Rail of that requirement, the foregoing provisions of this Part of this Schedule must have effect as if the removal of such apparatus had been required by the specified undertaker under paragraph 4(2).

Nothing in this paragraph precludes Network Rail from submitting at any time, or from time to time, but in no case less than 28 days before commencing the construction of any work, a new plan, section and description of the work in lieu of the plan, section and description previously submitted, and at the time of such submission the provisions of this paragraph applies to, and in respect of, the new plan, section and description.

Network Rail is not required to comply with sub-paragraphs (1) and (2) in a case of emergency but, in that case, it must give notice to the specified undertaker as soon as is reasonably practicable, and must provide a plan of the works so soon as reasonably practicable thereafter, and must comply with those sub-paragraphs so far as is reasonably practicable in the circumstances.

Removal, etc. expenses

26.—(1) Subject to the following provisions of this paragraph, Network Rail must repay to a specified undertaker the reasonable expenses incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 4(2).

(6) The value of any apparatus removed under the provisions of this Part of this Schedule is deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

If in pursuance of the provisions of this Part of this Schedule—

apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by Network Rail or, in default of agreement, is not determined by arbitration to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the specified undertaker by virtue of sub-paragraph (1), is reduced by the amount of that excess.

For the purposes of sub-paragraph (3)—

an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as placing of apparatus of greater dimensions than those of the existing apparatus; and

where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

An amount which apart from this sub-paragraph would be payable to a specified undertaker in respect of works by virtue of sub-paragraph (1) is, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the specified undertaker any financial benefit by deferment of the time for renewal of the apparatus in the normal course, reduced by the amount which represents that benefit—

as calculated in accordance with any code of practice relating to necessary measures where apparatus is affected by or diverted to accommodate major works that has been approved under section 143(2) of the 1991 Act (measures necessary where apparatus affected by major works); or

if no such code of practice is in force, as agreed between Network Rail and the specified undertaker or (in the absence of agreement) determined by arbitration.

Apparatus in temporarily stopped up road

27. Notwithstanding the temporary stopping up or diversion of any road under article 10 (temporary stopping up, etc., of roads), any specified undertaker may do anything in the road which is reasonably necessary to enable that undertaker to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in the road.

Programming of works

28. Where in consequence of the proposed construction of any of the authorised works, Network Rail or a specified undertaker requires the removal of apparatus under paragraph 4(2) or 6(4) or makes requirements for the protection or alteration of apparatus under paragraph 5, Network Rail must use its reasonable endeavours to co-ordinate the execution of the works in the interests of the safe, efficient and economic execution of the authorised works in accordance with Network Rail's construction programme and each specified undertaker must use its best endeavours to co-operate with Network Rail for that purpose.

Indemnity

29.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure of any of the works referred to in paragraph 4(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or other property of a specified undertaker, or there is any interruption in any service provided by the specified undertaker, Network Rail must—

repay the cost reasonably incurred by the specified undertaker in making good such damage, or restoring the supply, and

make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs sustained or incurred by it,

by reason or in consequence of any such damage or interruption.

(7) Nothing in sub-paragraph (1) imposes any liability on Network Rail with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of the specified undertaker, its officers, servants, contractors or other agents.

A specified undertaker must give Network Rail reasonable notice of any claim or demand described in sub-paragraph (1) and no settlement or compromise is to be made without the prior consent of Network Rail (not to be unreasonably withheld) which, if it withholds such consent, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Exercise of safeguarding and survey powers

30. Network Rail must, so far as is reasonably practicable, so exercise the powers conferred by article 14 (Safeguarding works to buildings) as not to obstruct or render less convenient the access to any apparatus.

31. Network Rail must not, in the exercise of the powers conferred by article 27 (Power to enter land for survey, etc), make any trial holes which interfere with any apparatus without the consent of the specified undertaker (which must not be unreasonably withheld and which is deemed to be given unless within 14 days of the specified undertaking receiving Network Rail's written request for consent Network Rail receives notification in writing that the specified undertaker is withholding consent).

32. Any notice given under this Part of this Schedule must be in writing.

Arbitration

33. Any difference arising between Network Rail and a specified undertaker under this Part of this Schedule (other than a difference as to its meaning or construction) must be determined by arbitration and in determining any difference under this Part of this Schedule the arbiter may require Network Rail to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1.—(1) For the protection of any operator the provisions of this Part of this Schedule, except in so far as otherwise agreed in writing between Network Rail and any operator, have effect.

(8) The provisions of paragraph 1 of Schedule 8 (apparatus of statutory undertakers, etc. on land acquired) do not apply in relation to apparatus to which this Part of this Schedule applies.

Nothing in this Part of this Schedule affects the operation of any enactment or agreement in force or entered into before the date on which this Order is made and regulating the relations between Network Rail and the operator in respect of any apparatus laid or erected in land belonging to Network Rail.

Interpretation

2. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003⁽¹⁵⁹⁾

“BT” means British Telecommunications plc (company no. 01800000) whose registered office is at 81 Newgate Street, London EC1A 7AJ;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system is to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act⁽¹⁶⁰⁾;

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

Apparatus in temporarily stopped up road

3. Notwithstanding the temporary stopping up or diversion of any road under article 10 (temporary stopping up, etc., of roads), an operator may exercise its rights under paragraph 9 of the electronic communications code to enable that undertaker to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in the road.

Indemnity

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the carrying out of the authorised works, or of any subsidence resulting from any of those works—

any damage is caused to any electronic communications apparatus belonging to BT (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of BT, or

there is any interruption in the supply of the service provided by BT,

Network Rail must—

repay the cost reasonably incurred by BT in making good such damage, or restoring the supply, and make reasonable compensation to BT for any other loss, sustained by it,

Sub-paragraph (1) does not apply to—

any apparatus in respect of which the relations between Network Rail and BT are regulated by the provisions of Part 4 of the 1991 Act; or

any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised works.

Nothing in sub-paragraph (1) imposes any liability on Network Rail with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of BT, its officers, servants, contractors or other agents.

BT must give Network Rail reasonable notice of any claim or demand described in sub-paragraph (1) and no settlement or compromise is to be made without the prior consent of Network Rail (not to be unreasonably

⁽¹⁵⁹⁾ 2003 c. 21.

⁽¹⁶⁰⁾ See section 106.

withheld) which, if it withholds such consent, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Arbitration

5. Any difference arising between Network Rail and the operator under this Part of this Schedule (other than a difference as to its meaning or construction) must be determined by arbitration.

PART 3

PROTECTION FOR MILLENNIUM HOTEL

1. For the protection of the long leasehold tenant of the Millennium Hotel, George Square, the provisions of this Part of the Schedule, except in so far as otherwise agreed in writing between Network Rail and the Owner, have effect.

Interpretation

2. In this part of this Schedule ---

“the 1970s extension” means the building, occupied by the Hotel, adjoining the Georgian Building and with a frontage on West George Street;

“the Georgian building” means the building, occupied by the Hotel, adjacent to Queen Street Station and with frontages on North Hanover Street and George Square;

“Hotel” means The Millennium Hotel, George Square, Glasgow;

“mitigation works” means works agreed by Network Rail and the Owner as being required in order to reduce the impact of the authorised works on the Georgian building;

“Owner” means Archyfield Limited (company number 01747079) and its successors in title as tenant under a lease of the Hotel between British Railways Board, British Transport Hotels Limited and Archyfield Limited recorded in the division of the General Register of Sasines for the County of the Barony and Reality of Glasgow and registered in the Books of Council and Session on 27 January 1984; and

“separation works” means the works agreed as being required for the purposes of —

- (a) separating utilities and services that serve the 1970s extension;
- (b) sealing the west wall of the Georgian building;
- (c) making good any damage to the Georgian building that is consequential on any other separation works or mitigation works; and
- (d) works ancillary to any separation works.

3. Network Rail and the Owner shall agree —

- (a) the separation works;
- (b) the mitigation works;
- (c) the allocation to the Owner of primary responsibility for the carrying out of specific separation works and the mitigation works;
- (d) the extent to which Network Rail may exercise its powers under the Order in relation to plots nos. 2A, 2B and 2C.

4. Network Rail shall have the discretion to carry out any separation works that have not been carried out by the Owner.

5. For the purpose of carrying out any separation works under paragraph 4, Network Rail may exercise its powers under article 19(1)(a)(i) to take temporary possession of plots nos. 2A and 2B.

6. Network Rail may exercise its powers under article 19(1)(a)(i) to take temporary possession of plots nos. 2A, 2B and 2C for the purpose of carrying out separation works for which it is responsible.
7. Any claim for compensation made by the Owner in respect of the separation works or the mitigation works in the Georgian building is to be treated as a claim under article 19(6) (with the benefit of article 19(8)), and the amount of the compensation will be assessed, in each case, as if the works to which the claim relates had been carried out by Network Rail after having taken temporary possession of the Georgian building under article 19.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Network Rail Infrastructure Limited (referred to in the Order as Network Rail) to demolish buildings and carry out ancillary works for the purpose of redeveloping the concourse of Glasgow Queen Street Station and constructing a new station building. For the purposes of these works the Order authorises Network Rail compulsorily to acquire land and servitudes or other rights in land, and to use land temporarily. The Order also contains protective provisions for statutory undertakers.

A copy of the Order plans mentioned in this Order and certified in accordance with article 39 (certification of plans, etc.) of this Order may be inspected free of charge during normal working hours at the offices of Network Rail at 151 St Vincent Street, Glasgow, Lanarkshire G2 5NW.

201X No.

TRANSPORT AND WORKS

TRANSPORT

The Network Rail (Glasgow Queen Street Station) Order 201[6]

Winckworth Sherwood
Minerva House
5 Montague Close
London SE1 9BB

Solicitors and Parliamentary Agents

APPENDIX 5: LIST OF APPEARANCES

Network Rail

Malcolm Thomson QC, who led evidence from:

Alasdair Camelford, Railway Operational Manager, Network Rail
Owen Campbell, Communications Manager, Network Rail
Alan DeVenney, Chartered Engineer, JMP Consultants Limited
Edward Dymock, Architect, BDP
Ian Emslie, Transport Planner, Associate Director Movement Strategies
Alison Gorlov, Solicitor and Parliamentary Agent, Winckworth Sherwood LLP
Neil Hamilton, Senior Track Engineer, Network Rail
Sandra Hebenton, Town Planning Manager, Network Rail
Dr David Hiller, Acoustician, Associate Director, Arup
Jeff Jardine, Senior Sponsor, Network Rail
Mhairi Mackenzie, Railway Operational Manager, Network Rail (in writing)
Fraser Maxwell, Senior Environmental Consultant, Arup
Kevin Murray, Project and Programme Manager, Associate Director, Mace Limited
Angus Robertson, Lead Development Manager, Network Rail
John Slade, Engineering Consultant, Arup
Lesley-Anne Stone, Chartered Environmentalist, Arup (in writing)
Kenneth Williamson, Architect, Partner, Hurd Rolland Partnership

Archyfield Limited

Douglas Armstrong QC, who led evidence from:

Robert Emery, Architect, Director, Hamiltons Architects Limited
Tricia Fitzsimons, General Manager, Millennium Hotel
Clive Harrington, Senior Vice President Operations – Europe, Millennium & Copthorne Hotels PLC
Bernard Hulland, Project, Strategy and Funding Manager, SLC Rail
Brian Muir, Planning and Development Consultant, Muir Smith Evans