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30 September 2010

Hazel Walker  
Group Company Secretary  
Network Rail Infrastructure Limited  
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#### **Network licence condition 4: consent to property-related activities**

In a notice dated 8 June 2005, the Office of Rail Regulation (ORR) consented to Network Rail, under the financial ring-fence condition of the network licence, carrying out property-related activities on the terms set out in that notice.

We extended that consent on three occasions; the current consent will expire on 30 September 2010.

Together with Network Rail we have reviewed the consent. We consider that it is appropriate to issue this replacement consent for the general property activities undertaken by Network Rail, rather than the activities carried out by individual business units within Network Rail.

ORR, having regard to its duties under section 4 of the Railways Act 1993 and to the information supplied by Network Rail as part of this review, consents for the purposes of condition 4.1 of the network licence to Network Rail carrying out property-related activities according to the conditions below:

1. Property-related activities means all the activities listed in paragraphs 1.1 to 1.6:
  - 1.1. The activities that relate to:
    - 1.1.1. the acquisition of estates, rights and interests in relation to land;
    - 1.1.2. the letting (or otherwise granting rights or interests including, but not limited to, licences, easements, wayleaves, advertising or other similar concessions) of land;
    - 1.1.3. the provision, operation, maintenance, improvement, renewal, replacement, refurbishment or enhancement of any station, freight sidings or light maintenance depots;
    - 1.1.4. supporting the provision of an extension to the network;
    - 1.1.5. permitting another person to use any land or other property comprised in a station primarily for the purpose of the provision or operation of a station;



- 1.1.6. permitting another person to use any land or other property comprised in a light maintenance depot primarily for the purpose of the provision or operation of light maintenance depot services;
  - 1.1.7. permitting another person to use any land or other property comprised in a rail freight depot or siding(s) primarily for the purpose of the provision or operation of rail freight; and/or
  - 1.1.8. providing property services and management relating to the activities referred to in 1.1.1 to 1.1.7 above; for example, management of rent arrears and property claims.
- 1.1A The activities set out in 1.1 above are subject to the condition that all such activities are not inconsistent with Network Rail's licensed activities.
- 1.2. In relation to the commercial estate, the activities of:
- 1.2.1. letting (or otherwise granting rights or interests including, but not limited to, licences, easements, wayleaves, advertising or other similar concessions);
  - 1.2.2. management;
  - 1.2.3. maintenance;
  - 1.2.4. renewal;
  - 1.2.5. replacement;
  - 1.2.6. refurbishment;
  - 1.2.7. enhancement (and associated enabling works, which are not for the purposes of future development); and
  - 1.2.8. enabling works for purposes of future development on land which Network Rail reasonably contemplates shall be subject to a forthcoming disposal.
- 1.2A The activities set out in 1.2 above are subject to the conditions that:
- (i) all such activities are not inconsistent with Network Rail's licensed activities; and
  - (ii) all such activities are necessary or expedient in order for Network Rail to practice good estate management of the commercial estate portfolio; and
  - (iii) activities 1.2.7 (enhancement (and associated enabling works, which are not for the purposes of future development)) and 1.2.8 (enabling works for purposes of future development) are subject to the cap set out in paragraph 2 below.
- 1.3. The activities of:
- 1.3.1 preparing for and supporting a potential disposal of land (in accordance with the land disposal condition in the network licence); and

- 1.3.2 the activity of the acquisition of land where that acquisition is directly related to and for the purpose of facilitating or supporting any such potential disposal.
- 1.3A The activities set out in 1.3 above are subject to the conditions that:
- (i) they are limited to non-physical works and services (except for site surveys, remediation, hoarding, site clearance and activities of a similar nature which shall be permissible); and
  - (ii) 1.3.2 (the activity of the acquisition of land) is subject to the cap set out in paragraph 2 below.
- 1.4. The activity of managing Network Rail accommodation, including but not limited to sourcing and acquiring accommodation, refurbishment, facilities management and letting superfluous space or granting licence concessions or other hire arrangements in relation to superfluous space.
- 1.4A The activity set out in 1.4 above is subject to the conditions that:
- (i) any such activity is not inconsistent with Network Rail's licensed activities; and either (ii) or (iii) below is satisfied;
  - (ii) any such activity complements or supports (directly or indirectly) the occupation arrangements by Network Rail staff (including but not limited to, the provision of ancillary services to those staff, for example food and drink outlets); and/or
  - (iii) in relation to letting superfluous space, or granting licence concessions, or other hire arrangements in relation to superfluous space:
    - (a) all such activities have been identified (in accordance with the internal governance arrangements of Network Rail) as being efficient in preference to a disposal by way of long lease or freehold sale; and either (b) or (c) below
    - (b) Network Rail has identified the relevant accommodation in its forecasts as potentially required in the foreseeable future by the business; or
    - (c) the letting or licence is a reasonably short term arrangement pending a potential disposal of the superfluous space (including but not limited to circumstances where the prospective buyer requires early access before completion of the disposal);
- and in relation to all of the above at (a), (b) and (c) the activities comply with the principles of good estate management, taking into account the nature and/or location of the superfluous space.
- 1.5. The activity of the day-to-day management of lettings and sale rights of miscellaneous commercial opportunities.

- 1.5A The activity set out in 1.5 above is subject to the condition that it is not inconsistent with Network Rail's licensed activities.
- 1.6. Activities ancillary to or incidental to those described in 1.1 to 1.5 above (including but not limited to advisory and contact services, surveyors' services and valuations, legal services support, customer monitoring and research, town and country planning support, mapping and land data services, rail projects management, deed management, architect services and facilities management).
2. In relation to the activities listed in 1.2.7 (enhancement (and associated enabling works, which are not for the purposes of future development)), 1.2.8 (enabling works for purposes of future development) and 1.3.2 (acquisition of land), Network Rail shall in aggregate expend no more than:
- £60 million per annum (such year to commence on 1 April) or such other higher amount as may be specified by ORR from time to time; and
  - £180 million in total for the period from 1 April 2010 until and including 31 March 2014 or such other higher amount as may be specified by ORR from time to time.
3. Subject to paragraph 4, this consent is valid from 1 October 2010 until 31 March 2014, or such longer period as ORR may specify in a notice given to Network Rail.
4. ORR may modify or revoke this consent at any time:
- a) if ORR issues a new consent relating to the conduct of businesses or activities of a similar type to those covered by this consent;
  - b) if ORR revises the definition of Permitted Business in Network Rail's network licence;
  - c) if ORR revises the treatment of de-minimis activities under network licence condition 4 (financial ring-fence); or
  - d) if it appears to ORR requisite or expedient to do so, having regard to the duties imposed on ORR by section 4 of the Railways Act.

5. In this consent:

- “commercial estate” means land in the ownership of Network Rail which is non-operational property and:
- (i) from time to time let or capable of being let on a commercial basis including but not limited to arches, retail outlets, offices and other facilities (e.g. left luggage) and also TOC occupied locations at managed stations; and/or
  - (ii) in the reasonable opinion of Network Rail capable of disposal in accordance with its network licence.
- “land” includes buildings and other structures, land covered by water, and any estate, interest, easements, servitudes or rights in or over land.
- “disposal” includes any sale, assignment, gift, lease, licence, the grant of any right of possession, loan, security, mortgage, charge or the grant of any other encumbrance or knowingly permitting any encumbrance to subsist (other than an encumbrance subsisting on the date when the land was acquired by the licence holder or on 15 November 2001) or any other disposition to a third party, and “dispose” shall be construed accordingly.
- “enabling works” means all works required for the purposes of supporting or assisting the construction, development or refurbishment of a building including but not limited to:
- (i) civil engineering works, including but not limited to roads and bridge works;
  - (ii) the erection of hoardings (including other necessary measures to provide site safety and security);
  - (iii) intrusive site surveys and investigations;
  - (iv) the provision of utility supplies and drainage;
  - (v) demolishing of existing structures and the clearing and preparation of ground only;
  - (vi) removal of contamination and ground remediation (including Japanese knotweed);
  - (vii) asset protection works where the railway undertaking interfaces with a development site; and
  - (viii) supporting and constructing foundations.

“miscellaneous commercial opportunities”	means: (i) commercial wayleaves, easements or rights; (ii) telecommunication and payphone rights; (iii) advertising; (iv) product promotions; and (v) newspaper/freesheet distribution at stations.
“network licence”	means the licence granted to Railtrack PLC by the Secretary of State for Transport on 31 March 1994, as modified from time to time.
“Network Rail” <sup>1</sup>	means Network Rail Infrastructure Limited - the holder of the network licence.
“Network Rail accommodation”	means the Network Rail corporate offices accommodation portfolio from time-to-time and other accommodation occupied by Network Rail staff.
“the Railways Act”	means the Railways Act 1993 (as amended by the Railways Act 2005 and as further amended from time to time).
“superfluous space”	means that part of the Network Rail accommodation that is not currently required for the accommodation of Network Rail staff.

Yours sincerely

A handwritten signature in black ink that reads 'Robert M Plaskitt'.

**Rob Plaskitt**

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<sup>1</sup> For the avoidance of doubt, “Network Rail” includes a subsidiary or other group company of Network Rail, and Network Rail shall procure that its subsidiary undertakings and associated undertakings shall not carry on property activities which are not in accordance with this consent.