

**Les Waters**  
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3 November 2020

Steve Peggs  
Acting Director, Development  
Network Rail Property  
1 Eversholt Street  
London  
NW1 2DN

Dear Steve,

**Network licence Condition 17: ORR audit of land disposal transactions under the general consent, from 1 June 2019 to 31 May 2020**

I am writing in relation to the above audit. We have reviewed the documents you provided for the 18 cases we selected and there are two areas for which we have comments: the consideration of disposals at stations and the consistency of information provided at sign off. We discussed these points at our meetings of 7 and 27 October.

*Use of the general consent – reasonably foreseeable railway use*

The disposal of land adjacent to Edenbridge Town station involved residential development, with some land excluded so that it could be added to the station lease area for additional car parking. Your records show that car parking was a concern raised in your stakeholder consultation but you were able to resolve those concerns. Subsequently, the rationale was that, with some land reserved for car parking, the remaining land therefore had no reasonably foreseeable railway use and so it was disposed via the general consent.

This is not how we expect the general consent to be used: land should have no reasonably foreseeable railway use at the outset, prior to scheme development. We recognise that this case appears to be an exception, since you have referred numerous cases to us with similar features for our specific consent. Recent examples are the stations at Cardiff Central and Henley-on-Thames, to which we granted consent, and they also featured development with the future provision of station car parking as a factor.

The disposal at Redbridge was one where no concerns were raised by stakeholders. However, we are of the view that although the land as a whole may not have strategic importance, a small adjustment to the sale boundary would have been prudent. Retaining the most southerly part would have helped safeguard the potential for track widening in the vicinity, given the existing four-tracking to the east. We recognise that your decision to use the general consent followed internal approval from a senior strategic planner but, from the information we have reviewed, we consider Redbridge to be another case where a slightly more conservative proposal might afford valuable flexibility to railway operations in the future.

We discussed both cases when we met and you have acknowledged that the information at sign-off could have gone further to set out the justification for using the general consent.

*Consistency of consideration at sign-off*

We also identified some administrative issues in your authorisation process. Several variations of the submission form were presented at sign-off which would have made

consideration in a consistent manner difficult to achieve. Some of this could be explained by the audit straddling the end of CP5 and the beginning of CP6, when the licence condition was modified. We note that you are now improving consistency by using one single form but, of the eleven cases reviewed using the new form, only three mentioned the System Operator (SO). Since non-objection by the SO is a requirement for any disposal under Condition 17.1(b)(ii), you should include the SO position in the form to make it clear. In our meeting we also agreed that there is scope for a more consistent approach to the use of legends on maps/plans. Despite this variability, we recognise and welcome the general improvement in the quality of the information submitted.

When we spoke on 27 October, you told us that the responsibility for Network Rail Property is being devolved to five new regional teams. You also informed us of your proposal to increase your assurance process from two levels to three levels to strengthen consistency and reduce the risk of variability between the five teams' authorisations. We welcome this and if you wish to discuss any such issues arising from the devolution of your property teams, please let me know.

As I said when we spoke, and notwithstanding the comments above, we have no cause for concern that Network Rail is using the general consent to progress transactions by bypassing referral to us. However, we do urge caution when considering land disposals around stations in cities or busy towns as – by their proximity alone – land there is, at the outset, more likely to have a reasonably foreseeable railway use and justification needs to be clear. You said that you would pass this message on to the five new teams.

In closing, I should add for the avoidance of doubt, that we currently do not intend to review the regulatory arrangements for land disposals in the near future, the current arrangements being implemented only twelve months ago.

We appreciate your help with our enquiries and your team's assistance with our audit.

I am copying this to Kara Chester, Matthew Blackwell and Sandra Palmer.

Yours sincerely

A handwritten signature in blue ink that reads 'Les Waters'.

**Les Waters**