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SENT BY EMAIL

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22 December 2023

Dear Martin

Network Rail's Representations on Grand Union Trains Limited's London-Stirling Section 17 Track Access Application

Thank you for your letter dated 08 December 2023. As our teams have discussed, this has highlighted an opportunity to improve our communication of key decision points and timescales associated with track access applications.

We take the communication errors associated with this application (and indeed issues with any application) seriously and have already set in motion a number of improvements – some of which are planned for implementation as a result of the recommendations from the independent reporter's review earlier this year, and others by way of the service level agreement (SLA) that both our teams are currently developing which should help provide an earlier indication of the likely timescales involved with any given application.

The concerns identified in your letter comprise:

- a) lack of sufficiently comprehensive response to the Grand Union Trains Limited (GUT) application by the 01 December deadline, and
- b) our failure to sufficiently, and formally, communicate our progress with reviewing the application and the reasons for the delay ahead of the deadline when we knew that we needed additional time to respond fully.

Having investigated these issues, this letter provides more detail about the reasons for the additional time required for our full response to this application and summarises further our position on the oversights in the communication of this prior to 01 December.

Reasons for additional time required to assess the GUT application

As you have stated, the GUT application for paths between London and Stirling has been in progress since 2019.

During the period from 2019 the Network Rail System Operator (SO) has committed significant resources, time, energy and effort to supporting this aspirant service, undertaking 3 pieces of analysis in collaboration with GUT to identify: 1) if there was capacity for additional paths; 2) then

if paths could be found in the recast Dec 2022 Event Steering Group (ESG) Development Timetable structure, and; 3) finally assess the impact of a rolling stock change.

This approach and the output were positively received by GUT. The additional time it took to approve the application by incorporating the work into the wider Dec 2022 timetable was widely recognised by the industry and ORR as the necessary thing to do. This completed the evaluation process from Network Rail's perspective and had the application not been withdrawn by GUT there would have been no further work required by us.

During the summer of this year, GUT indicated a proposed change to the planned rolling stock, and this was formally advised to us on 01 Sept 2023, when their previous application was withdrawn to be replaced with the new application.

ORR reminded SO on 14 September 2023 that it expected to receive comprehensive and accurate representations within the timeframe of the Statutory Consultation, and advised SO the ORR consultation was to run for 28 days from 03 November given that previous work had been completed on the application, and that the ORR's expectation was that this work should be to refresh the analysis.

In September SO Capacity Planning undertook some high-level analysis to inform the new GUT submission which included:

- a review of CL221 running times
- creation of CI222 running times

In both cases this analysis concluded that the new rolling stock would be able to meet the original CI91 timings whilst reflecting the absence of tilting SRTs on WCML for CI222.

Subsequently, a more detailed and complex timetable path analysis was internally agreed and endorsed at SOAR Panel for the following reasons:

- to reflect the updated base from the Dec 22 to the Dec 23 timetable which incorporates new and amended paths that have been added and changed in the identified 'whitespace' during the timetable production periods since the Dec 22 TT was developed. For example, additional and altered freight services, altered mail services, multiple tweaks to passenger services across the route, changes to the timetable due to remodelled Carstairs.
- to re-check the proposal against all the updates to TPRs that have occurred in the intervening year. For example, Denbeigh Hall South Jn, remodelled Carstairs and Preston overlap margins.
- to be consistent with the treatment of other applications – looking at the impact of the proposed services against the latest timetable.
- to undertake performance analysis including key pinch points and path variance analysis to align with the treatment of other rights applications.

The initial output of this analysis (completed 02 November) showed that the GUT paths found originally in the Dec 22 timetable had been eroded and it was prudent for us to work the proposal through in more detail to understand whether the paths could be re-established by flexing other operators' services. Our Advanced Timetable (ATT) team completed this further work on 11 December and found the GUT Euston to Stirling paths can be accommodated with 100+

consequential amendments of other operators' services (aka flexes). The Performance and Simulation team is now assessing this output in line with the approach we would take with other access rights applications to provide confidence on the performance impact. This will be completed by 30 December.

Communications

Following Network Rail's Industry Consultation, the ORR launched the 28-day Statutory Consultation on 03 November 2023, resulting in a deadline for representations of 01 December 2023.

Our response letter, provided on 01 December, stated that we did not support the new application because more work was needed to validate whether the paths were viable.

From my review of this timeline, I can see that our analysis of the proposal and internal sign off (including from discussion at SOAR panel on 06 November and subsequent Panel Review by correspondence of the response undertaken from 22 November) that the response took until this date. I can find no evidence of delay in this aspect of our representations; in fact, our timetabling team worked hard to finish their initial analysis within those timescales. This analysis concluded that further work was required by both our timetabling and performance teams for us to provide ORR with a final position on the application.

Although we consider that our response on 01 December was in time and in line with ORR's guidance on Track Access Applications, I fully accept that we failed to communicate fully and comprehensively with ORR about our progress with the analysis at any point during the two consultations, and although we kept the applicant updated, our formal documentation of this during the consultation periods could have been stronger. We are confident, however, that discussions regarding the work required took place on the four-weekly ORR/North-West & Central Region/System Operator tri-partite open access call on 10 November; but we accept that formalisation of this requirement was incomplete and our communications following this call lacking.

This meant that ORR and the applicant were not in receipt of formal written communication explaining the detailed work that we needed to do to comprehensively assess the new application, including to reflect the changes to proposed rolling stock and changes to the infrastructure (Train Planning Rules) and to the timetable (reflecting the December 23 timetable).

I believe it was this breakdown in communications that resulted in a mismatch of expectations for the response by 01 December, which has ultimately led to your letter.

As indicated above our analysis is largely complete and once we've consulted our regional colleagues, we'll be able to provide our full and final representations on the application. We had allowed in our plans until the 26 of January for this to be completed, however we can informally share the output of our work with ORR colleagues now if this would be helpful, noting it is subject to further internal review. If an earlier deadline for our formal representations can be achieved, we will notify the ORR in writing.

Summary

Although we believe our response was compliant with the guidance, we recognise and agree that there are lessons to learn from our communications regarding this application. We do not however consider it a systemic failure. We are putting in place the necessary actions to resolve the issues which the ORR experienced.

More generally regarding the access application process, our teams jointly developed a “Working Practice Agreement” for managing applications which has been well deployed in most areas. However, there are opportunities for us to tighten up on it and in doing so improve our communication both internally and with ORR and customers. I have therefore asked my SO access team to quickly set out a plan for assuring that the good practice set out in the agreement is being fully implemented.

Yours sincerely

[redacted], signed on behalf of

Lawrence Bowman
Interim Group Director, System Operator
Network Rail

cc Paul McMahon – Planning & Regulation Director, Network Rail