

Office of Rail and Road
25 Cabot Square
London E14 4QZ

By email: StationsandDepots@orr.gov.uk

13th March 2025

Dear Office of Rail and Road

Applications by Evolyn and VTE Holdings Limited (VTE) for directions under section 17 of the Railways Act 1993

- 1 Eurostar refers to Office of Rail and Road's (**ORR**) letter dated 27 February 2025 relating to Evolyn's and VTE's Applications to ORR for a Depot Access Contract relating to Temple Mills International Depot (**TMI**) under section 17 of the Railways Act 1993 (the **Act**).
- 2 Eurostar also acknowledges Evolyn's letters dated 5 and 13 December 2024 and VTE's letter dated 17 January 2025 (Eurostar has not seen a copy of Evolyn's letter dated 6 February 2025). ORR has not invited Eurostar to respond to those letters and Eurostar therefore does not respond at this stage but fully reserves its rights to respond in due course. It should not be inferred that Eurostar accepts any points made in those letters.
- 3 Throughout this letter, Eurostar has cross-referred to points it has made previously in its written representations (inexhaustively and without prejudice to the balance of its representations, which make other points that continue to be relevant). This is in the interest of brevity as Eurostar maintains its previous representations but also because Eurostar recognises that Evolyn and VTE have both sought in their written representations and wider communications strategies to rely on characterisations of Eurostar's representations that do not accurately reflect Eurostar's representations.

ORR's s.17 processes

- 4 ORR's position is that it must exercise statutory functions in relation to TMI because s.17 has been engaged by Evolyn's and VTE's applications. Eurostar's contrary position is set out in its representations in previous letters dated 18 September 2024, 25 September 2024, 5 November 2024, 13 November 2024, 21 November 2024, 29 November 2024 and its first and second letters dated 17 December 2024, including that the applications are premature and lacking in detail and supporting material. For the avoidance of doubt, Eurostar has never stated that TMI is exempted from the scope of s.17. Nevertheless, Eurostar recognises that ORR has considered those representations and still intends to conduct s.17 processes in relation to Evolyn's and VTE's applications. **ORR should be aware that Eurostar has received two further access requests in addition to Evolyn's and VTE's. Those access requests remain confidential and commercially sensitive.**
- 5 ORR rightly acknowledges that it is unable to make directions under s.17 in respect of either application because it does not have all relevant information. ORR also does not have sufficient information appropriately to consider its duties under s.4 of the Act in relation to Evolyn's and/or VTE's applications. Eurostar understands that ORR will not make any directions until it has gathered all such information and that it will notify all relevant parties once it considers that it has done so. If that is not the case, Eurostar asks ORR to confirm its position.

Eurostar International Ltd
6th Floor Kings Place
90 York Way
London N1 9AG

T +44 (0)3432 186 186

eurostar.com

- 6 There is a lot of information to be gathered. ORR must gather the information required to consider and/or assess (amongst other matters):
- (a) The availability (if any) of capacity at TMI¹.
 - (b) Technical compatibility and compliance of rolling stock with the facilities at TMI².
 - (c) Whether there are economically acceptable alternatives to access to TMI³. ORR must not assume that there are no economically acceptable alternatives (there is, of course, a material possibility that there will be insufficient spare capacity at TMI in any event). Without limitation, for Evolyn's and VTE's applications, this would include consideration of Ashford Depot and Le Landy (as Evolyn and VTE both intend to operate services to Paris). In particular, Eurostar is not aware that Ashford Depot has published access arrangements, whether any parties have applied for such access or whether ORR has undertaken (or is undertaking) a capacity assessment at that depot.
 - (d) Whether there is sufficient confidence that applicants will in the future have rolling stock to be maintained at TMI⁴. Eurostar notes that ORR rightly recognises the operational (im)maturity of access proposals as a potentially relevant consideration in the context of its s.17 processes.
 - (e) Fair and reasonable charges/pricing associated with the maintenance of rolling stock at TMI⁵.
 - (f) Appropriate terms for any depot access contract⁶.
- 7 As Eurostar has previously identified⁷, such matters are likely to be informed by requirements for train operator's licences and safety certification and securing access to the high-speed network and related infrastructure (in the UK and Europe).
- 8 Nevertheless, Eurostar would welcome clarity on the scope of the information gathering process ORR anticipates conducting. Eurostar refers to the points it made previously⁸ about Evolyn's and VTE's failures to provide evidence supporting their applications and to substantiate benefits they assert to be likely to arise in connection with the services and other matters identified in their application forms. The applicants are apparently well-funded and advised commercial operators; clearly, the onus must properly be on the applicants to present their own detailed proposals and technical requirements.

Sequencing of ORR's s.17 processes and the parallel conduct of SFD processes

- 9 ORR's letter of 27 February states:
- "As we made clear to Eurostar in previous correspondence, the submission of a section 17 application to ORR does not prevent the facility owner continuing to engage with an applicant. In respect of TMI, the section 17 applications do not prevent Eurostar continuing to engage with Evolyn and VTE, including in accordance with the terms set out in the SFD for TMI. The submission of a section 17 application need not mark the end of negotiations."*
- 10 Eurostar recognises this reading of s.17 is correct and has not suggested that it is prevented by reason of the law from continued engagement. However, Eurostar has explained that conducting

¹ Eurostar refers to paragraphs 13(a) and 14 of its letter of 25 September, paragraphs 16(a) and 17 of its letter of 13 November, paragraphs 1 to 3 of its letter of 29 November, paragraphs 19 to 21 of its first letter of 17 December.

² Eurostar refers to paragraphs 12, 13(b), 13(d), 14 and 25(b) of its letter of 25 September, paragraphs 15, 16(b), 16(d), 17 and 28(b) of its letter of 13 November and paragraphs 14 and 21 of its letter of 21 November.

³ Eurostar refers to paragraphs 22 to 26 of its first letter of 17 December and paragraph 11 of its second letter of 17 December.

⁴ Eurostar refers to paragraphs 13(b), 15 and 25(c) of its letter of 25 September, paragraphs 16(b), 18 and 28(c) of its letter of 13 November, paragraph 13 of its letter of 21 November and paragraph 19 of its second letter of 17 December.

⁵ Eurostar refers to paragraph 13(f) of its letter of 25 September, paragraph 16(f) of its letter of 13 November, paragraphs 22 to 25 of its letter of 21 November and paragraphs 27 to 30 of its second letter dated 17 December 2024.

⁶ Eurostar refers to paragraph 25(d) of its letter of 25 September, paragraph 28(d) of its letter of 13 November, paragraphs 8 to 11 of its letter of 21 November and paragraphs 12 to 16 of its second letter of 17 December and paragraph 14 below.

⁷ Eurostar refers to paragraph 7 of its letter of 18 September, paragraph 9 of its letter of 5 November, paragraph 16 of its letter of 25 September and paragraph 19 of its letter of 13 November.

⁸ Paragraph 25(a) of its letter of 25 September, paragraph 28(a) of its letter of 13 November, paragraphs 16 to 19 of its letter of 21 November and paragraph 34 of its second letter of 17 December.

parallel processes in accordance with the Service Facility Description for TMI (the **SFD**) with a party that has also applied for access under s.17 or where another party has applied for access under s.17 would generate wasted costs and time (for Eurostar and the applicants) and could generate inconsistent and incompatible outcomes⁹. ORR has not indicated how it anticipates Eurostar conducting parallel processes and mitigating those inefficiencies and other adverse consequences.

- 11 Eurostar has been seeking clarity from ORR about how it anticipates s.17 and SFD processes being conducted in parallel. Eurostar reiterates its requests for procedural clarity, **not least given the wider interest in access to TMI**.
- 12 Eurostar's position remains that it is necessary first to conduct an independent capacity analysis to test the availability of capacity at TMI. This was initially identified as being necessary because Eurostar's internal analysis indicated that TMI had insufficient capacity to accommodate Evolyn's and/or VTE's access requests and, accordingly, Eurostar started work to commission an independent capacity analysis. Eurostar's position in that regard is the same as ORR's position; ORR likewise recognises that the relevance of all other considerations follows the identification of available spare capacity.
- 13 Eurostar's conduct has, therefore, not fallen behind the stage of assessment that ORR considers to be appropriate. Further, insofar as Eurostar is aware, these depot access processes are significantly more advanced than processes relating to, for example, track, station and tunnel access and the procurement and homologation of rolling stock. These considerations of access to a depot are being progressed years ahead of Evolyn or VTE having any rolling stock requiring maintenance.
- 14 Because of those factors and particularly given the apparent imminence of the initial outputs of ORR's commissioned independent capacity analysis, there is a limited amount of work (if any) that would be efficient and prudent for Eurostar to progress in parallel to ORR's s.17 processes. Eurostar will, however, progress the development of its template depot access contract suite, **conduct tours of TMI for those firms seeking access who have not already had the opportunity of a tour should they wish to have such a tour (recognising the importance that all such firms are provided with equivalent opportunities)** and will continue to refine the criteria to be applied to guide capacity allocation decisions (Eurostar refers to paragraph 6.4 of the SFD).
- 15 Of course, Eurostar would welcome discussion with ORR about parallel conduct of processes in ways that would avoid or mitigate duplication and the likelihood of inconsistent and/or incompatible outcomes.

Matters to be excluded from publication

- 16 Eurostar has highlighted in yellow the parts of this letter that should not be published on the basis that such publication would or might seriously and prejudicially affect the interests of a person or body.
- 17 Eurostar is content for ORR to provide an appropriately redacted copy of this letter to VTE and Evolyn. Redactions should be applied to those parts of this letter highlighted in yellow, which are confidential as against Evolyn and VTE.

Eurostar looks forward to continuing constructive engagement with ORR.

Yours faithfully,



Gareth Williams

on behalf of Eurostar International Limited

⁹ Eurostar refers to paragraph 14 of its letter of 13 November, paragraph 7 of its letter of 29 November and paragraph 13 of its first letter of 17 December.