

BY EMAIL ONLY

30 June 2025

Gareth Williams
General Secretary
Eurostar International Limited
6th Floor, Kings Place
90 York Way
London
N1 9AG

Dear Mr Williams

**APPLICATIONS FOR DIRECTIONS UNDER SECTION 17 OF THE RAILWAYS
ACT 1993**

1. In our letter dated 12 June 2025 we undertook to write to you separately regarding matters raised in your representations of 13 March 2025, 10 April 2025 and 9 May 2025¹. We are also now in a position to respond to your separate letters of 1 April 2025 and 9 May 2025² setting out Eurostar's initial written representations in respect of the applications for directions submitted by Gemini TOC Limited (Gemini) and Trenitalia France (Trenitalia) respectively.
2. This letter deals with the representations set out in your letters dated 13 March 2025, 10 April 2025 and 9 May 2025. We have written separately in response to your other letters of 1 April 2025 and 9 May 2025, which relate specifically to the applications for directions submitted by Gemini and Trenitalia.
3. ORR acknowledges Eurostar's comprehensive representations both in respect of individual applications and in relation to the process more generally. Many of those representations are reflected across several letters. For the purposes of this reply, ORR has sought to group Eurostar's representations into broad themes. Unless there is a reason for doing otherwise, we have sought to address them in this way rather than by way of reference to particular points in specific paragraphs of Eurostar's letters.

¹ Received in your email of 9 May 2025 at 15.02 HRS

² Received in your email of 9 May 2025 at 15.44 HRS

4. Since your letters were written there have been developments in some of the matters raised. Nonetheless, we consider it worthwhile to address them in this reply. In addition, some of the general issues raised were addressed in ORR's [letter](#) to you of 27 February 2025. While ORR's position on those matters remains unchanged, we have, where we consider it helpful, reiterated some of those points below for the purpose of addressing Eurostar's representations.

Section 17 of the Railways Act 1993

5. ORR has previously set out its position regarding the application of section 17 of the Railway Act 1993 (the Act) to Temple Mills International Depot (TMI). Our position on this matter remains unchanged.

6. ORR has received four separate applications under section 17 of the Act seeking directions for access to TMI. Those applications were received on 23 August 2024, 23 October 2024, 28 February 2025 and 28 March 2025. Each of those applications must be considered on its individual merits and each required ORR to conduct the statutory process as required by Schedule 4 to the Act. That process stipulates the steps ORR must follow and the minimum timescales associated with certain of those steps. While this has added time to the overall process, it has been unavoidable and is a feature of there being multiple applications for directions to access the same facility. It has also impacted the timing of ORR being able to set out its next steps for considering the applications, including indicative timescales and criteria – see *Clarity of next steps and timescales* below.

7. As noted previously, ORR considers that section 17 of the Act and ORR's processes contain sufficient flexibility to allow us to consider these applications on their merits. That flexibility also ensures that we are able to take account of Eurostar's proposals regarding its future use of TMI. As requested in your letter of 13 March 2025, ORR confirms that we will not make any decisions on directions until we have gathered all relevant information.

Section 17 and the parallel conduct of Service Facility Description processes

8. Eurostar submits that ORR has failed to engage in discussions sought about how it could continue with the application process set out in its TMI Service Facility Description (SFD) in parallel with the section 17 process.

9. ORR considers that it has addressed this matter on more than one occasion. We have made clear that submission of a section 17 application to ORR does not prevent a facility owner continuing to engage with an applicant. In respect of TMI, ORR has confirmed that the section 17 applications do not prevent Eurostar from continuing to engage with the applicants, including in accordance with the terms set out in the SFD for TMI. In short, the submission of a section 17 application need not mark the end of negotiations.

10. ORR has advised Eurostar that negotiations with applicants on requests for access are a matter for the facility owner. ORR cannot advise facility owners how to undertake those negotiations, either generally or in parallel with the section 17 process. Indeed, given that ORR must reach a decision on the applications for directions before it, it would not be appropriate for us to advise Eurostar on the

manner of any separate negotiations for access it may have with any or all of the applicants.

11. At paragraph 13 of your letter dated 13 March 2025, you state that “*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 (recognizing 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...*” While it is important to keep such criteria under review and to update them, when necessary, ORR takes this opportunity to stress the importance of the need for equivalent treatment in respect of the criteria to be applied to guide capacity allocation requests. Eurostar will wish to consider the timing of refining its criteria to avoid the possibility of any undue discrimination or perceived unfairness.

Independent capacity study

12. ORR is pleased to note that Eurostar welcomes the ORR-commissioned independent capacity analysis study. ORR considers that understanding the available capacity at TMI is a key consideration to progressing the applications for directions; ORR needed to understand if there was any space available at TMI, otherwise the process would be irrelevant. As you know, the study concluded that:

- There is some available capacity at TMI for more trains to be stabled, serviced and maintained;
- Some of this capacity can be accessed without any changes to current operational practices at the depot; and
- The rest of this capacity may be delivered through investment in changes to current operational practices. (This does not include any adaptations required to ensure compatibility with different types of trains).

13. ORR confirms that the capacity study is only one element of considering the applications for directions to access TMI. Having obtained the conclusions of the capacity analysis study, ORR now seeks further information, clarification and representations from all applicants, Eurostar and interested persons/parties with a wider interest. See paragraphs 14 and 15 below for further information.

Clarity of next steps and timescales

14. ORR agrees with Eurostar on the need for clarity on the next steps in this process. That is why on 5 June 2025 we wrote [this letter](#) setting out our decision making process, including the indicative assessment criteria and proposed timescales. The timing of this letter was influenced by:

- the need to complete the statutory disclosure process for each of the applications (as required by Schedule 4 to the Act); and
- our decision to await the outcome of the independent capacity analysis study at TMI. ORR considers that the conclusions of the capacity study are a key consideration in this process.

15. As we made clear in our letter of 5 June 2025, our next steps include inviting Eurostar to set out its plans for future use of TMI. In that regard we wrote to you on 12 June 2025 to invite further information, clarification and representations from Eurostar regarding its requirements for future use of capacity at TMI.

Wider investment

16. Eurostar highlights the limitations of the section 17 process to look beyond the light maintenance facilities at TMI to explore and assist in the development of options that facilitate the investment that is required to deliver growth. Similar points were raised in the responses we received to the consultation on the findings of the TMI capacity analysis study; these noted that the level of capacity identified at TMI is unlikely to be sufficient to accommodate all of the aspirations articulated by new applicants and by Eurostar. Several respondents noted the need for wider investment and changes in approach in order to relieve this constraint.

17. As we stated in our letter of 5 June 2025, it is outside the scope of the section 17 process for ORR to direct on investment matters. However, we would stress to all parties that the section 17 process does not preclude the parties working together on alternative and agreeable solutions.

Next steps

18. We will copy this letter to Evolyn, to VTE, to Gemini and to Trenitalia. We will also publish it on ORR's website in line with our usual processes.

19. If you have any questions in the meantime, please do not hesitate to contact me.

Yours sincerely

p.p. Ian Biggar