



To (by email):

Stephanie Tobyn
Director, Strategy, Policy & Reform
ORR
E-mail: [REDACTED]

Anit Chandarana
Group Director, System Operator
Network Rail Infrastructure Ltd
Waterloo Station General Offices
Walker Suite
London, SE1 8SW

19 March 2025

Dear Stephanie,

1. Thank you for your letter of 7 March 'Network Rail approach to access decisions' which relates to the unprecedented position facing both ORR and Network Rail following the volume of mandatory applications received by ORR in response to the letter to industry of 24 April 2025 on 'Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes'.
2. In responding to the concerns and options you have highlighted, I would also like to take this opportunity, in respect of the key observation - "*a. it has become clear that Network Rail does not plan to agree to allocate long-term firm access on its network even where it supports operators.*", to reiterate our position **as initially set on in the Statutory Representations to these application on 28 June 2024** and repeated in subsequent materials as detailed below.
3. Overall, I am confident that, as set out below, we are progressing at pace to achieve what I hope are our shared objectives: **to provide clarity to our customers as soon as practicable** on the s22A & s17 access applications before you in response to the April 2024 request.
4. **We want to work appropriately with your team to expedite decisions.**
5. These need to be taken as quickly as possible and we are seeking to do so in line with legislation, guidance, and good practice – mindful both of our obligations to not unduly discriminate and cognisant of the indications both ORR and Network Rail have given the industry in terms of the manner in which the applications will be progressed.
6. **Please let me assure you that there has not been, as you suggest, any change in our approach.** We have been consistent, both to ORR directly in correspondence and meetings, and in our wider communications to industry - that we would provide representations to the mandatory applications submitted to you as part of this process.

- ██████████
7. This includes commentary in our High-Level Plan letter to ORR of June 6th, the Interim Approach to Access Rights, established following ORR's request, on 8th August, our detailed Plan of Work published on 12th August and the updated plan issued on 31st January.
 8. Our original statutory representations to the individual applications stated that;
*"As explained in our letter of 05 June, these representations letters were mostly expected to reserve our position pending the outcome of the capacity and performance assessments. We are also mindful that the plan and its analysis may identify dependencies, risks or changes in risk profiles that could require revision or further review of this response. **However, we hope that the plans we provided give you the reassurance that we will assess this application to inform Network Rail's position in a later representation in line with the plan and letter.** In addition, Network Rail wants to give the ORR the confidence that we have made every effort in this letter to give any initial views where we can."*
 9. Our detailed plan, published at your request last summer made clear that;
*"wherever we are able to reach a conclusive position we **will provide those final representations to ORR at once so that it may reach a decision consistent with its statutory duties.**"*
 10. This was repeated in the Interim Approach, and I am also aware of personally clarifying language between our organisations so that there was no ambiguity over the fact that we would be making representations. I was therefore surprised by the first observation in your letter.
 11. In respect of your subsequent observations that; *"b. Network Rail expects ORR to direct it on the use of its network but has not yet provided sufficient evidence for ORR to take those decisions in a timely manner."* - please be assured that our final representations will see us supporting (possibly with suggested amendments or caveats), or clearly opposing, the applications in front of ORR.
 12. Our aim is to work with ORR and to provide clear and detailed representations of sufficient quality to facilitate ORR's decision making process in a fair and consistent manner.
 13. We understand the need to clearly articulate what can and cannot be accommodated and what is included in any concept train plans/development timetables. Our teams have already been in communication and material is now being provided to ORR covering a wide range of applications. I set out further detail around next steps below.

Acting expeditiously

14. We believe, notwithstanding our wider concerns, that **submitting new applications now in line with established Network Rail & ORR policies and practices does not offer industry the prospect of faster directions**. Especially when we are so close to making final representations on many applications. You can expect to receive the first tranche of these the week commencing 24th March 2025.
15. Representations confirming that we could accommodate an application, does not require us to submit a distinct and separate supported application with an operator. As per ORR's guidance [*'Making an application (for track access) para 142*]; "...It would be possible for the application to be withdrawn and an agreed application under section 18 or 22 submitted. **It may be more expedient to continue the section 17 or 22A process whilst having regard to the fact that the disagreement between the parties has been resolved.**"

A unique challenge

16. Across the nine interacting locations listed in the April 2024 communication to industry, **an unprecedented volume of unsupported applications was received** - both at the same time and with potentially competing

and conflicting requirements for areas of capacity where there are already challenges. The process created and **the subsequent management and consideration of applications has therefore been unique in its nature.**

17. **We recognise and have been supportive of both organisations following the statutory process for mandatory applications.** Since their submission we have followed the statutory process for dealing with such applications as set out in Schedule 4 to the Act – including Statutory Representations on 28th June 2024.
18. In addition, As requested by ORR, we published an interim approach for agreeing rights. This has sought to balance the need for business continuity, so that current services may continue to operate while avoiding prejudicial decisions that could unduly favour one party where aspirations interact or compete.
19. Outside of these applications and the geographies and access applications affected by it **we have sought to continue to agree sales and support applications.** Including our Interim Approach around **one hundred supported supplemental agreements have been approved since July 2024** (86 in the second half of 2024 and 14 to date in 2025).

The December 2025 Timetable

20. We note that ORR have identified a perceived risk related to the delivery of the December 2025 timetable with significant portions at this point unsupported by Rights. There are a number of risks to the successful delivery of the timetable, but we don't agree that rushed approval of Rights, some of which are beyond the planned scope of the ECML ESG timetable, without careful consideration of their implications reduces that risk.
21. Network Rail anticipated the current situation, and it was considered when we first set out our approach to managing these applications on 5 June 2024. The timetable development process will continue for December 2025 as per the Network Code and standard industry processes. Where capacity allocation decisions are required, these will be made in line with the Decision Criteria and Considerations detailed in the Network Code.
22. The Decision Criteria and Considerations take account of the status of rights behind an access proposal at D-40. Had Network Rail pushed through approval of applications for December 25 this winter it is likely we would have created more risk to the process. We have spent the last two months re-integrating the ESG specification with wider changes in the national timetable, identifying and fixing cross boundary paths and updating the plan with the latest rounds of Rolling Spot Bids (RSBs). This process has confirmed that some elements of the 82 applications conflict with the ESG plan. To have approved en masse all these rights would have left an over specified timetable, led to disputes between parties both holding firm rights, and potentially led to an even poorer performance outcome for the timetable than we have already predicted.
23. The East Coast Main Line Task Force was set up to review risks and make decisions in relation to the go/ no go for the December 2025 timetable. Network Rail has shared our plans for processing Access Rights with the group and these have been noted and supported. No operators have indicated to Network Rail in that forum that the absence of final Rights decisions is likely to impact their operational readiness - at this stage of the process. The priority of the Task Force was set towards establishing a clear go/ no go decision for the ESG specification so that operators have clarity on exactly what service specification to plan for. The decisions of the Task Force and the industry PMO have given that clarity to passenger operators. Freight operators bid their requirements for the December 2025 timetable on 7th March, and we agree with ORR that it remains important for Network Rail to provide representations on outstanding freight access applications as swiftly as practicable.

Next Steps and how we have and are providing ORR with sufficient evidence for timely decisions

24. You have asked for prompt representations to be made with evidence to ORR in the coming month(s) if we hold to our planned approach. I can confirm that it is our intention to providing representations with a clear indication of our position that;
- follow the mandatory application process,
 - are consistent with our repeated plans for responding with representations,
 - are mindful of the risk of behaving in an unduly discriminatory manner, and
 - are consistent with recent decision-making practice.
25. ORR have now had general representations on applications affecting the West Coast Main Line (South) – on 7 February 2025, and general representation on Complex and/or Competing Applications interacting on Location ECML Kings Cross - Edinburgh and Leeds – on 14 March 2025.
26. This last letter has provided important information to support ORR when it comes to making decisions on applications. This includes context on the work in developing the ECML Policy, ECML Industry Task Force, key performance information, as well as updates on power supply assessment. In addition, it serves to provide ORR with a clearer understanding of whether access rights sought in applications are as expected - and makes reference to the multiple interactions within these applications outside of the scope of ECML Task Force and the challenges, complexities and risks associated with them.
27. Network Rail has also made formal declarations of Congested Infrastructure on 14 March 2025 for the following lines of route:
- Between Huntingdon North Jn and New England North Jn (Peterborough)
 - Between Northallerton Longlands Jn and Newcastle King Edward Bridge South via the ECML
 - Between Doncaster Marshgate Jn and Leeds Copley Hill West Jn.
28. We do not want to take longer than is needed to provide our representations on any application and we look for opportunities to expedite our assessment of any applications. The following packages of representations are expected to be with you in the next few weeks:

Week commencing 24th March

- Final representations on an initial tranche of ten individual applications including eight relating to the East Coast Mainline.
- One additional final representation on a national passenger application

Week commencing 7th April

- Final representations on a further group (4) of applications from Eastern Region.
- Final representations (2) from Southern Region
- Initial group of Freight Representations (7) which will all be final representations or able to be used as final representations (e.g., in some cases if quantum can be used as well as 1 hour firm right windows)

Week commencing 14th April

- Final Representations (2) from Scotland
- Freight representations (see below).

Week Commencing 21st April

- General representations on power modelling from North West & Central Region
- Final or further representations on a group of applications (6) relating to the West Coast Mainline.
- Freight representations (see below).

Weeks Commencing 28th April

- Freight representations (23) on remaining applications not submitted w/c 7/4/25, will be submitted across April – (see previous weeks) - either as Final or Further Representations depending on capacity assessments. We intend to have all of them completed by the end of April. Where further representations are made, Final representations would be made as soon as possible and any of those remaining can be expected to be made after the end of Phase 5 of our High-Level Plan (that ends 13th June 2025).
29. This leave us with around a dozen passenger representations (some of which are alternates by the same operator) by the end of Phase 5 of our High-Level plan that runs until 13 June 2025. However, we anticipate being able to provide final representations on number of these individual applications from across the network during April and May – reducing that number further.
 30. **Capacity Planning will share any outputs that can enable expedited decisions on applications as soon as reasonably practical.** This could relate to a single application or a number that interact in a relatively contained way; but we will only be able to do this before the end of the assessment programme if we are able to reach a position of confidence about the way these applications interact with others.
 31. As previously noted, there may need to be assessment after this period to identify any work packages that could need to continue; this could be due to deferral of aspirations or outstanding fundings decisions for example. Network Rail will remain open with ORR where these situations arise.
 32. You have also asked us to extend our contingency arrangements for access rights to endure beyond December 2025 to allow ORR sufficient time to resolve matters, we will do so in an appropriate way such as extending our Interim Approach beyond its current intended expiry date.
 33. You will be aware from our published plans that there is only one location (Cardiff) where ongoing analysis is currently expected to extend to a point where we agree it would be sensible to have such an arrangement extended. The variables in terms of timing are commented on in the updated Plan published in January.
 34. We do however hope that this additional time would not be necessary anywhere else (and potentially not at this location (we are of course keeping this under close review)) given that we are seeking to work with ORR to provide clear and detailed representations of sufficient quality to facilitate ORR's decision making process in a fair, timely and consistent manner.
 35. We will publish this letter to industry and will ask our customer teams confirm with operators and aspirants during the course of their ongoing engagements the implications of our redoubled efforts in terms of the timelines for our individual representations to you.

Kind regards,



Anit Chandarana
Group Director, System Operator
Network Rail