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28 June 2024

Network Rail Representations for the proposed 201st Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and First Great Western Limited (FGWL) dated 4 March 2016.

As directed in your letter dated 30 May 2024, Network Rail is making its representations in respect of a Section 22A of the Railways Act 1993 for the 201st Supplemental Agreement (SA) of the Track Access Contract (TAC) dated 4 March 2016 between Network Rail Infrastructure Limited (Network Rail) and FGWL.

In line with ORR's letter of 24 April 2024 to the industry on 'Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes', FGWL submitted this application to the ORR on the 20 May as a 22A.

Your letter made clear to industry that "We expect applications received by 20 May 2024 to be of sufficient quality, completeness, and certainty to enable Network Rail, industry and ORR to assess them. A prerequisite for achieving this is that applicants will have discussed their plans with, and sourced information from Network Rail before submission (in line with our guidance)."

It further "requested that Network Rail produces a high-level plan by 05 June 2024 for ORR and industry. This will set out when it will produce its robust assessment for the applications submitted by 20 May 2024."

Network Rail fulfilled this request on the 5 June 2024 outlining the plan for undertaking capacity and performance assessments to inform both Network Rail and the ORR on the applications received.

That response should be considered alongside this Representation.

In particular, it should be noted as indicated therein that:

- due to the unprecedented scale of 83 unsupported applications received at one point in time, Capacity Planning plan to phase its analysis,
- assessments will initially focus on applications and geography which do not overlap with the ongoing ECML ESG Development work to mitigate the risk of redundant analysis,
- all ECML ESG related applications will be considered following decisions as to the implementation of the ESG Timetable,

As we set out in the High-Level Plan; “Only those rights which potentially interact, contain the required level of information to inform assessments, were discussed with Network Rail and are intended for the next three timetable changes will be considered by Network Rail.” and that “Applications consisting of rights for geography not impacted or for later timetable changes should be considered separately.”

These factors have shaped the anticipated plan for submission of evidence related to this and other applications.

Whilst Network Rail was made aware by FGWL that they would be applying for the proposed access rights as requested in ORR’s letter, Network Rail has not yet had an opportunity to fully consider its position on this application and whether it can eventually support the proposed access rights.

ORR, in its invitation to NR to make written representations, expects that NR will:

- include all of the necessary information for ORR to take an informed decision; or
- to refer to all of the necessary analysis and the confirmed timelines Network Rail requires to reach its decision on the application. This should include the “5 June 2024 capacity analysis” and any other analysis Network Rail needs to complete;
- recognise which other applications within the published list of “20 May 2024 applications” could interact with each application.
- Confirm any interested persons name(s) or confirm there are no interested persons.

Network Rail can confirm that we will not be able to in this representation provide all the necessary information for ORR to make an informed decision at this point in time. However, in this representation we will address each of the points above as well as provide:

- an initial view of the application Form P and supplemental.
- where applicable, highlight if Network Rail believes that some of the access rights sought are outside the scope of the ORR’s letter dated 24 April 2024;
- an indication of how Network Rail will be able to provide its final representations and any intermediate representations so that ORR will then have all relevant information from Network Rail to assist ORR in making an informed decision.

Interested Person(s)

Network Rail is not aware of any persons who would fall within the definition of “Interested Person” in paragraph 1 of Schedule 4 of the Railways Act 1993 in relation to the application made by FGWL.

Keeping you informed

As stated in the letter to the ORR on 5 June “The plan will need to be flexible and reviewed through the process to consider industry decisions in relation to the ECML ESG along with potentially other changing industry priorities and requirements. For example, recommendations from the East Coast Task Force may impact on industry resources, in particular timetabling resource. This could require changes to the remaining stages of the plan, including impacting when analysis can be completed.”

Please note although this application does not directly interact on the ECML, any decisions relating to the ECML could have consequential impacts on capacity and performance in relation to this application. This is particularly relevant for locations used by services which cross NR Route boundaries.

In the letter we also stated “We propose establishing a change control mechanism to track changes in the plan, when and where required, to retain transparency and clarity. This may also lead to consequential changes to anticipated dates of any resulting representations planned by our customer teams.” Where such changes in timeline occur, we will notify you of any impacts on expected content, volume or timing of forthcoming information.

Where there are capacity or performance aspects of this application that will not be addressed through the High-Level plan (due to lack of necessary information as indicated by ORR, or due to the focused areas of analysis being provided by the High-Level Plan) we will discuss below how we propose to provide the necessary information that will be required by ORR to take a decision.

Summary of Rights Sought

In their application and as a high-level summary FGWL is seeking the following access rights to commence from the commencement of PCD 2024 Timetable:

- Firm rights for an early morning SX round trip between Oxford and Paddington until the expiration of the Track Access Contract.
- A Firm right for SO Cheltenham - Swindon Relief until the expiration of the Track Access Contract.
- A continuation of the Contingent rights provided for under the 96th SA for the Bristol to Oxford Winter Period SO services until the expiration of the Track Access Contract.
- Extensions to the end of the Track Access Contract as Contingent rights for:
 - SX 1P19 - 0900 Oxford to Paddington
 - SO 2G01: 0520 Gloucester to Great Malvern
 - 2G92: 0643 Gloucester to Worcester Foregate Street
 - Sun 2B38: 0905 Gloucester to Swindon

Industry Consultation for this application commenced on 21 May 2024, and concluded on 21 June 2024.

The High Level plan and Dependencies

The High-Level Plan submitted on June 5, and our additional engagement with Capacity Planning indicates that the following phases may be relevant for this application:-

- Phase 1 - Collation and Scoping
 - Phase 2 - Risk Identification for application
 - Phase 3 - Production Development Period for SCD 2025 aspirations

- Phase 4a – ECML confirmation for December 2025
- Phase 4b – ECML confirmation for May 2025
- Phase 5 – December 2025 Production Period

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We are mindful that the High-Level Plan and its analysis, or other issues indicated, may identify dependencies, risks or changes in risk profiles that could require revision or further review of individual responses. We also note the 5 June plan does not guarantee that analysis will not have to continue beyond the timetable development process. Where this is the case we will communicate with the Operator and ORR.

This along with the interacting applications matrix in Annex B, should support Network Rail in considering application and interacting location dependencies.

We are mindful that the High-Level Plan and its analysis, or other issues indicated, may identify dependencies, risks or changes in risk profiles that could require revision or further review of individual responses. We also note the 05 June plan does not guarantee that analysis will not have to continue beyond the timetable development process. Where this is the case we will communicate with the Operator and ORR.

As stated later in this letter, if interactions occur at different points in time, i.e. different Timetable Change Dates then this could have an impact on when Network Rail will be able to submit its position with regards to the application.

Common route / regional identified considerations / constraints

This request for Rights covers a point in the network where it has been identified at a regional level that more than one applications should be considered by ORR at the same time as any one decision would restrict the ability to accommodate other requests due to the items listed in Annex A. The other affected operators' applications are set out in Annex B.

Wales and Western Region will consider any additional access right applications for the region in the context of current performance levels, our ongoing recovery plans, all other known and emerging future service aspirations, and our asset condition and maintenance requirements. Furthermore, we will consider the risks associated with planned enhancement projects, including Old Oak Common, East West Rail, South Wales Metro, MetroWest and others.

Considerations with Oxford

ORR will be aware that the Didcot – Oxford – Birmingham route is busy mixed traffic railway, with long-distance passenger, local passenger and freight. Traffic in the Oxford area increased significantly with the introduction of the London Marylebone to Oxford service and will increase again as a result of East West Rail. There are also multiple operational constraints in the area i.e. Sandy Lane and Yarnton Level Crossings and ORR will be aware that Network Rail, in conjunction with our stakeholders, is developing plans to resolve these.

As with elsewhere, applications for this area will need to be assessed through detailed assessment in line with the Western plan, including demonstrating acceptable impacts on our asset condition and maintainability, and performance modelling to demonstrate reliability.

Network Rail has significant concerns with Level Crossings north of Oxford, but acknowledges that none of the requested rights within FGWL's 201st Supplemental Agreement interact with said crossings.

Considerations with Gloucester

The Gloucester area is highly constrained, and any application for this area also needs consideration of services via Cheltenham which bypass it but interact with the wider Gloucester area. Service levels are limited by the complex interacting crossing movements at Gloucester Yard Junction, Gloucester Barnwood Junction, Gloucester station area and the shunt moves required at Cheltenham for services terminating there. The long-distance nature of many of the passenger and freight services in this area further restrict flexibility due to the need to align with paths through Bristol, South Wales and the West Midlands.

Frequency increases affecting Gloucester are envisaged by the promoters of both the MetroWest and the South Wales Metro projects. We published our Greater Bristol rail strategic study in February 2023, with recommendations for this interacting major nearby area, including consideration of the Bristol to Gloucester route. We plan to commence the Cardiff Area Capacity Study late this summer, including considering Cardiff to Gloucester route.

There is a major level crossing located close to Gloucester station (Horton Road Level Crossing). While Network Rail will assess the impact of FGWL's application alongside other operator applications in line with the Western route plan and share the outputs with the ORR, and Network Rail will regard the evidence presented around level crossing barrier downtime and consequential safety risk in respect of this level crossing as important in ORR's consideration of the application.

As with elsewhere, applications for this area will need to be assessed by Network Rail through detailed assessment in line with the Western plan, including demonstrating acceptable impacts on our asset condition and maintainability, and performance.

Network Review of Form P and associated documents

Network Rail has performed an initial assessment of the Form P and associated documents submitted with this application.

Network Rail would like to note that according to advice received from FGWL, the SO Cheltenham to Swindon relief service would not be required to call at Gloucester from December 2024 if it is approved. This would be a change from the current application in which FGWL specify the service to be via Gloucester Station.

For full purposes of clarity, Network Rail has reviewed the SO Cheltenham to Swindon relief service and while this part of the application meets the criteria set out in the ORR's letter to industry on 24 April because of the requested route via Gloucester Station, in view of the subsequent information provided by FGWL NR may merely conduct a sensitivity test for this service as it interacts with Gloucester Yard Junction rather than Gloucester Station. This could be assessed from Phase 3.

Network Rail would also like to note that neither the early morning SX Oxford <> Paddington round trip, the SO Cheltenham to Swindon service, nor the Bristol <> Oxford SO extensions have been bid as part of the December 2024 timetable production process, and therefore have not been included in the December 2024 offer; we understand this may be due to funder discussions.

Network Rail does note however that the following services have been bid and included in the New Working Timetable for the December 2024 timetable:

- 1) SX 1P19 - 0900 Oxford to Paddington
- 2) SO 2G01: 0520 Gloucester to Great Malvern
- 3) 2G92: 0643 Gloucester to Worcester Foregate Street
- 4) Sun 2B38: 0905 Gloucester to Swindon

Network Rail's Initial Position on the Access Rights Sought prior to necessary assessments being completed in line with the plan

Network Rail has made every attempt in their initial assessment of the Application received to be able to inform the ORR of any early positions it might have on the access rights sought. In this instance it will not be possible in this representation for us to give an initial view, but we have outlined in the plan the necessary assessments / analysis that need to be undertaken to inform a view.

Whilst we have in phase 1 of the 5 June 2024 plan identified where applications could interact at the previously identified locations with another Operators application, we will - through Phase 2 for December 2024 and May 2025 applications - identify those access rights sought which are not at an interacting location. If Network Rail does identify access rights (or part of the access rights) which are not at an interacting location, then Network Rail will consider the proposed rights as per business as usual and will engage with the operator and ORR on this. Rights at interacting locations will be considered in line with the paragraph below headed "Allowing business continuity while preserving freedom of action for ORR in taking its decision".

Possible Interactions with Other Applications from 20th May 2024

As requested in ORR's invitation for NR to make written representations to this application, Annex B to this letter shows where this application could interact with each of the "20 May 2024 Applications" at the previously identified locations.

Please note if the interactions occur at different points in time, i.e. different Timetable Change Dates, then this will have an impact on the dates that Network Rail will be able to submit its position with regards to the application i.e. if the application submitted for Operator A is to commence December 2024 and there are no concerns or conflicts that does not mean that when Operator B's aspirations are considered which start in May 2025 that both will be able to be accommodated and therefore Network Rail will have to see the outputs of the capacity assessments for the May 2025 Timetable for Operator B before they can give a final position on Operator A's application.

Allowing business continuity while preserving freedom of action for ORR in taking its decision

Our letter of 5th June stated that in this interim period Network Rail will have to balance the need for business continuity, so that current services may continue to operate and timetable changes can be made when there is low risk of negative outcomes for passengers and freight users, with the need to avoid prejudicial decisions that could unduly favour one party where aspirations interact.

We note that some operators have split their applications across different timetable periods, which already provides ORR with the ability to deal specifically with the nearer-term applications now, whereas others have combined different timetable periods in a single application.

Should ORR wish to make a single decision on each application it has received, without breaking that application into parts, then, where a single application has been made relating to multiple timetable periods, there is a risk that rights might not be available in time for an operator to commence services as early as it would like, given the need for all of the information set out in our plans to be available in order for decisions to be made relating to those future timetables.

Where paths associated with some of the quantum rights in this application are included in a New Working Timetable issued under the Network Code Part D process, then Network Rail proposes to work with the applicant on these elements of the application. Our aim, subject to normal governance processes, would be to potentially agree a new s22 application for contingent, time-limited rights for that timetable period with no presumption of continuity – in line with the approach that ORR has supported for applications on the East Coast Main Line in recent years.

This would enable you to reserve your position on future capacity choices, allowing decisions that relate to a later timetable period to be made simultaneously, while making effective use of the railway network in the earlier timetable periods.

Conclusion

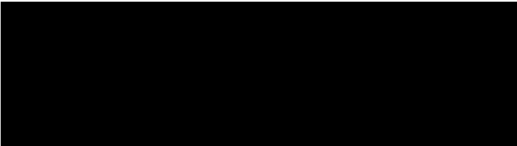
Network Rail is aware that this representation letter does not contain all the information needed for this application for the ORR to make a decision. However, in line with the Western plan, Network Rail will keep the ORR abreast of developments and where further support can be offered, this will be communicated without delay.

As explained in our letter of 5th 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.

Network Rail asks that while we carry out our assessments, ORR progresses with its own assessments wherever possible to assist in making early decisions/ descoping the scale of applications requiring assessment from Network Rail. Additionally, where we have deemed an application for December 2024 or May 2025 to be unready in the initial representations in this letter, we ask that this be descoped from the analysis requirements as quickly as possible.

Network Rail will continue to keep ORR sighted on the progress of the plan for this application.

Yours sincerely



Richard Turner

Customer Relationships Executive

Western Route, Network Rail

Annex A – Plan for Information / Analysis / Assessment

Details of Information / Analysis / Assessment	NOTES
High Level Phases from 5th June Plan	
Phase 1 Collation & Scoping	Please see the June 5 letter for details
Phase 2 Risk Identification for May 2025	Please see the June 5 letter for details
Phase 3 May 2025 Production Development Period	Please see the June 5 letter for details
Phase 4a - (ECML confirmed for December 2025) – focusing on December 2025	Please see the June 5 letter for details
Phase 4b - (ECML confirmed for May 2025) – focusing on December 2025	Please see the June 5 letter for details
Phase 5 – December 2025 Production Period	Please see the June 5 letter for details
Further Route / Function Analysis / Assessments / Information	

Capacity Assessment	
Collating & Scoping	System Operator - CP
Phase 2 Timetable Risk Identification May'25	System Operator - CP
Phase 3 May'2025 Production Development Period	System Operator - CP
Phase 4a ECML confirmed Dec'25 Dec'25 assessment ag	System Operator - CP
Phase 4b Dec'25 assessment ECML confirmed May,25	System Operator - CP
Phase 5 december 2025 Production period	System Operator- CP

Risk Identification	
May'25 TP-Hazid passenger applications (Known at the tim	Timetable Project Manager
May'25 TP RAM - all applications	Timetable Project Manager
Dec'25 TP Hazid - all applications	Timetable Project Manager
Dec'25 TP -RAM - all applications	Timetable Project Manager
Internal consultation of applications	Customer team
Internal consultation Dec'24 applications not previously c	Customer team
Internal consultations May'25 applications	Customer team
Internal consultation Dec'25 applications	Customer team

Planned Assessments	
Level Crossing assessment	
ALCRM modelling/assessment	LCM
ALCRM modelling/assessment - May'25	LCM
ALCRM modelling/assessment - Dec'25	LCM
Performance Analysis	
Phase 1: Internal review of existing data	Route performance teams
Phase 2: Performance assessment of May'25 decisions	Route performance teams
Phase 3: Performance assessment of Dec'25 decisions	Route performance teams
Engineering Access Assessment	Access Planning/Maintenance
Cardiff Central Capacity study workshop	Wales route
Cardiff Central Capacity Study	Wales route

Governance	
Potential representations for Dec'24	
Draft Letter	Customer team
Internal Review	Customer team
SOAR review and approval	Customer team
Submit to ORR	Customer team
Final representation:	
Draft letter	Customer team
Internal Review	Customer team
Internal Consultation	Customer team
SOAR review and approval	Customer team
Submit to ORR	Customer team

