



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

5th June 2024

Dear Mr. Lewicki

**The Wrexham, Shropshire & Midlands Railway Company Ltd (WSMR)
Response to Network Rail comments in letter dated 2nd May 2024**

We are pleased to provide WSMR's response to the representations made in Network Rail's (NR) letter of 2nd May 2024 regarding the WSMR Section 17 Track Access application Form P which was submitted in draft for industry consultation on 30th October 2023 and in full on 14th March 2024.

WSMR has addressed each of NR's core issues in this letter, with detailed specific responses to each NR comment in the attached schedule. We discuss capacity in our Sections 1-3 below, performance at Section 4, rolling stock ('the specified equipment') at Section 5, safety at Section 6, the Track Access Contract template at Section 7 and 'Other Considerations' at Section 8.

The key issues for WSMR are:

- NR appears to have considered network capacity against the December 2023 timetable only, without a wider review of its strategic and succeeding context, and without having provided WSMR with information about significant structural timetable changes proposed by other operators.
- NR required WSMR to plan and performance-model its proposed services against a number of unused train paths shown in the December 2023 timetable. We understand these paths are now the subject of new Track Access applications as a part of the current NR/ORR review of future aspirations, and thus presumably should have only the same status as WSMR's application.
- NR has indicated that some WSMR paths conflict with freight paths that have not been used for 12 months but appears not to have sought to resolve these issues through discussion with the relevant freight companies.
- We maintain that WSMR's performance analysis is correct and valid, with WSMR's impact principally conditioned by Avanti West Coast's (AWC) significantly poor WCML performance (at the foot of all operator on-time percentages). Prevention of Open Access operations bringing wide benefits to economies, communities and the environment on this basis would be disproportionate.
- WSMR information regarding effective management of Euston turnaround times and platform capacity has not been considered by NR.
- Environmental issues regarding diesel traction as Euston were not raised by NR during WSMR's engagement with its team between February 2023 and submission of the Form P in March 2024.

As such we are concerned both that NR has assessed WSMR's time [REDACTED] incomplete and outdated information and that our proposal could have been significantly strengthened had NR informed us during our joint work between February 2023 and our draft and full Form P submissions of the range of structural changes to and after the December 2023 timetable proposed by other operators.

1. NETWORK CAPACITY

1.1 'Network Capacity Assessment' criteria

NR's capacity analysis appears to be focused on train path compliance against the specific December 2023 timetable used in WSMR's application and, as such, does not represent a strategic 'Network Capacity Assessment' under NR's 'Strategic Capacity Code of Practice' (2017) which includes examination of "*longer term future aspirations*"¹ such as Open Access paths.

WSMR's timetable development work in advance of its Section 17 industry consultation in November-December 2023 specifically sought to meet NR's criteria within the 'Network Capacity Assessment' guidance via demonstration of the *principle* of capacity on the WSMR route through an *indicative timetable* with an associated record of all clashes with the December 2023 timetable.

In our view it is unsurprising that fully compliant paths may not be found when overlaying proposed new services on an established and working timetable. Moreover, even if paths fully compliant with the December 2023 timetable had been found, that in itself would also not have automatically meant that relevant strategic capacity exists in future timetables, given:

- Development of changes by other operators, themselves normally subject to 'Network Capacity Assessment' criteria.
- Considerations in those criteria such as "*whether any existing Strategic Capacity paths could be used to meet the request*" or "*managing the relinquishment of unused freight train slots*"².

Such changes or considerations relevant to WSMR's Section 17 application include:

- **West Midlands Trains (WMT)** - In June 2024 WMT re-cast its Birmingham to Shrewsbury timetable, in the process increasing from 1 train per hour (tph) to 2 tph in each direction.
- **Transport for Wales (TFW)** - In December 2024 TfW is proposing to recast its whole timetable including services around Shrewsbury and between Shrewsbury and Wrexham.
- **Avanti West Coast (AWC)** - There is continuing uncertainty about presently unused Avanti West Coast paths on the West Coast Main Line which appear to not have current rights.

Given their significance it would have been valuable if Network Rail had informed WSMR of the first 2 of these either during our autumn 2023 pre-consultation development work of which, as noted in its 2nd May 2024 letter, it was fully aware from February 2023, or before our formal March 2024 Form P submission.

¹ "*Strategic Capacity is capacity for which there is no immediate requirement but is likely to be required by operators in order to meet short-term requirements or longer-term future aspirations.*" Strategic Capacity Code of Practice – Network Rail (2017) <https://www.networkrail.co.uk/wp-content/uploads/2019/05/Strategic-Capacity-Code-of-Practice.pdf>

² Strategic Capacity Code of Practice – Network Rail (2017) – op.cit

1.2 WSMR and NR engagement in capacity assessment

During detailed pre-planning meetings in early Autumn 2023 with the appointed NR planner, all the proposed WSMR paths were examined in detail together with the associated timetable clashes.

NR stated that it was satisfied that, with appropriate additional work and engagement with other operators, these should prospectively be resolvable over the normal course of a timetable development to make the paths compliant.

On this premise, this led directly to the timetable and comments presented in our October 2023 Draft Form P used for consultation, noting NR's view that the paths could be made compliant.

In addition to our comments at 1.1 on strategic capacity, WSMR is thus disappointed that NR's position revealed in the NR Technical Note and now stated in its letter differs significantly from that taken during our joint discussions in early Autumn 2023.

1.3 Timetable clash resolution opportunities

During WSMR discussions with NR, its team indicated that neither resources nor budget were available to undertake any further work to resolve the timetable clashes identified in the December 2023 timetable.

This appears to be inconsistent with NR's approach to the proposed December 2024 TfW re-cast which, at a recent Events Steering Group (ESG) meeting, was noted to contain over 4000 conflicts with existing trains and in respect of which NR was actively working to resolve these with other operators on TfW's behalf.

WSMR has asked NR whether it would be prepared to undertake such work under a commercial arrangement, but again NR has confirmed that it does not have the available resource.

Therefore in respect of the train path conflicts that NR highlights in its table, WSMR does not propose to respond specifically at this stage to each one. Nonetheless at 1.4 below we summarise 3 examples which illustrate our view that NR's current capacity assessment does not meet its Strategic Capacity Code of Practice.

1.4 Timetable clash examples

- **1C02 06:21 Wrexham General to London Euston** – NR highlights a clash with a leaf-fall only railhead treatment train operating train 3S02 over the Sutton Park Line. WSMR note that the 3S02 path is itself non-compliant with NR's planning rules. Given WSMR is unlikely to be operating until leaf-fall 2025 it may be a reasonable assumption that both 1C02 and 3S02's non-compliance could be resolved within the next 12 months.
- **1C04 07:49 Wrexham General to London Euston** – NR highlights passenger conflicts between Wrexham and Shrewsbury and Shrewsbury and Wolverhampton. WSMR does not believe that either of those clashes exists in the current December 2024 timetable as bid.
- **1C10 18:54 Wrexham General to London Euston** – NR highlights a conflict with 6K78 between Cosford and Walsall. Based on a year's data from Period 7 22/23 to Period 7 23/24, 6K78 did not operate at all in that period, and may thus reasonably be considered against the Strategic Capacity Code of Practice criteria noted at 1.1 regarding unused freight train paths.

WSMR is currently finalising a fresh analysis of paths based on the current bid for the December 2024 timetable. Once this is complete WSMR will commission a peer review from a second recognised planning expert and share this work with NR and ORR.

Developing a future service-specific Open Access timetable against regularly changing strategic multi-operator passenger and freight working timetables is clearly challenging. We see recognition of this practical reality underpinning the approach within NR's Strategic Capacity Code of Practice in facilitating Condition 1 of NR's Network Licence (in particular meeting "*the reasonable requirements of persons providing services relating to railways and Funders, including Potential Providers or Potential Funders*" (Condition 1.2) and ensuring "*that it duly takes into account the interests of all classes of passenger operator and freight operator in satisfying the requirements set out in Condition 1.2.*" (Condition 1.4)³

1.5 Unused Avanti West Coast (AWC) WCML rights

We note NR's comment that WSMR Nuneaton-Euston paths "*do not align with the outputs of the December 2022 North West and Central (NW&C) Events Steering Group (ESG) timetable*".

It is our understanding that despite the outputs referenced, AWC does not currently hold rights for a number of trains that are currently being shown in the timetable and WSMR is being required to plan and performance-model around these trains and in effect to treat these paths as having rights.

We now understand that AWC is applying via Supplemental Applications for additional rights in line with some of these services that appear to be incorrectly shown in the current timetable.

In line with Part G of the Network Code, we note NR's statement on 19th February 2024⁴ to all 'current and aspiring operators' that its continuing guidance on unused rights is:

- "*That we ask that operators monitor the quantum they hold to identify any rights with no plans to use in the current or future timetables*".
- "*That we ask that operators look to both surrender of any remaining capacity that will not be required, temporarily or permanently.*"

Our response is thus threefold:

- The absence of clarity regarding AWC's intentions and capability to fulfil its full service rights is detrimental to the Network Capacity Assessment in respect of WSMR's application (and others) to provide new and/or additional services to passengers using the WCML.
- This is further confused by AWC appearing to have paths in the timetable that are being protected by NR despite rights for these not currently existing.
- AWC is now seeking to secure rights for some of these services at a time when, as evidenced by its current levels of poor performance and cancellations, it appears not to have the specific resources required to deliver either existing or enhanced levels of service (e.g. rolling stock, traincrew).

³ 'Network Licence granted to Network Rail Infrastructure Limited' <http://www.orr.gov.uk/sites/default/files/2024-04/network-licence-granted-to-network-rail.pdf>

⁴ 'Unused access rights – annual update of Network Rail's position' <https://sacuksprodnr.digital0001.blob.core.windows.net/sale-of-access-rights/Sale%20of%20Access%20Rights/19.02.24%20Unused%20access%20rights%20-%20Network%20Rail'%20Ongoing%20Approach.pdf>

WSMR expects that NR should apply the principles of Network Code Capacity Code of Practice and its 2024 unused rights guidance both to other operators and our application.

Until this issue is resolved we are re-examining our indicative timetable to establish whether WSMR services can utilise the standard hour 'Open Access' WCML paths which were the subject of the recent Section 18 application by Grand Union Trains' (GUT) Stirling-London Open Access services, on the logic that if these can work in the hours used by GUT then they most likely work in the unused hours. Again, we will share the outputs of this work with NR and ORR.

We would value NR's parallel consideration of this approach which we suggest is positive and constructive in what is an inevitably challenging capacity assessment and allocation context.

2. EUSTON STATION CAPACITY

2.1 Euston platform occupation by WSMR trains

We note NR's comments about long turnarounds at Euston. These appear to take no account of the details about Empty Coaching Stock (ECS) paths to Wembley Intercity Depot, specifically focused on ensuring that WSMR trains would not be unnecessarily filling valuable space in Euston platforms, which was shared by WSMR with NR colleagues in the performance report dated 12th March 2024.

If clarification is required beyond the information supplied to NR thus far we will be pleased to discuss further with its team.

2.2 Euston HS2 construction

We recognise NR's concerns about uncertainty around platform availability due to HM Government's March 2023 instruction that Euston HS2 station construction be paused⁵. Clearly there will be a consequent need to take account of new HS2 designs and programmes, as and when these emerge, in any and all Track Access applications relevant to the current Euston Station.

However, plans for HS2 have been an unquantified possibility since the March 2023 pause, and may be further affected and/or delayed by any change of government following the July 2024 General Election. In such a context we suggest it is not proportionate to prevent, on this basis, new services benefitting the economy, supporting housing and population growth and offering connectivity not currently enjoyed by major regions and towns on the WSMR route, and appears to be against the spirit of HM Government's subsequent October 2023 announcement of a diversion of HS2 funding to other transport projects.

We also note that this issue did not prevent NR from supporting Grand Union Trains' Stirling-London Euston track access application which was approved by the ORR in March 2024.

⁵ <https://www.hs2.org.uk/building-hs2/tunnels/euston-approaches/>

3. WREXHAM-GOBOWEN CAPACITY

We note NR's comment about Wrexham to Gobowen being constrained in some hours. Clearly, WSMR would wish to work with NR and freight operators to ensure that the capacity can be maximised by balancing the requirements of passenger and freight.

WSMR is not seeking to operate in every hour.

4. PERFORMANCE

4.1 NR indicates that it disagrees with the WSMR conclusions in its performance report dated 12th March 2024. In turn we disagree with NR's position.

4.2 Time-to-3 analysis

In respect of Time-to-5/Time-to-3 (T-5/T-3) NR's 2nd May 2024 letter argues that the WSMR report focuses on T-5 in both its graphical and textual content, and thus in its analytical approach, when route headways of 3 minutes suggest T-3 should be applied.

NR similarly made this comment in our discussions before our March 2024 Form P submission, at which time we clarified that whilst the graphs show T-5, for ease of view, the analysis and narrative is based on T-3 and On-Time measures given we fully and logically agree with the T-3 principle.

We refer here to Section 4 (page 16) of the WSMR report which notes "*The graphs show time-to-5 as the easiest to visualise metric and to simplify the graphs, however on time and time-to-3 are also presented in the data tables accompanying each set of trains and have been used in the interpretation of results and the underlying data analysis.*"

4.3 Proportionate assessment on an under-performing route

We maintain that our statement in Section 5 (page 33) that "*the overall network impact is low, with most service groups being unaffected and even those being affected showing a minimal impact*" is correct and valid.

The WSMR report does note that inevitably trains immediately adjacent to WSMR services are the most likely to be impacted and suggests that this could and should be addressed through specific regulating policy for those trains (whilst noting that Railways cannot take account of such positive interventions).

Similarly on each service group analysis at Sections 4.3 to 4.10 (pp 16-28) constructive potential mitigations are suggested against performance impacts.

In our Section 5 conclusions (page 33) we note that our analysis sits within the context of '*a route with poor baseline performance*'. Examples taken from ORR data - October to December 2023⁶ - include:

⁶ Passenger rail performance, October to December 2023 (ORR: March 2024)
<https://dataportal.orr.gov.uk/media/jkfh21zr/performance-stats-release-oct-dec-2023.pdf>

- AWC's on-time performance at 37.2% being the lowest on the rail average of 62.2%, and its cancellations at 11.3% second only to CrossCountry Trains and against a national average of 4.9%.
- AWC's on-time performance being significantly lower than other operators using the southern section of the WCML, with West Midlands Trains at 57.1% and London Overground at 69.8%.

We thus suggest that the modelled performance impact of WSMR services is principally due to the very poor performance of AWC WCML services. It is again not proportionate in WSMR's view that new services benefitting the economy, supporting housing and population growth and offering connectivity not currently enjoyed by major regions and towns should be prevented by current levels of poor performance by other operators.

4.4 WCML Performance Partnership

Given this context WSMR strongly welcomes and fully supports the proposed WCML Performance Partnership and looks forward to being a proactive and committed participant.

5. 'THE SPECIFIED EQUIPMENT'

NR and ORR will understand the challenges regarding the range of different rolling stock options for Open Access operators, the multiplicity of operational, route and commercial considerations that affect choices, and their availability.

We have sought to be as clear as possible in our rolling stock proposals, with our specification of Class 22x capable of 125mph specifically intended to make best use of WCML capacity. In preparing our indicative timetables we have used Class 221 Sectional Running Times (SRTs) as these are readily understood by NR and the wider industry.

We recognise that SRTs may need minor alterations if Class 222s were selected as our preferred and/or available.

On the issue of Class 222 clearance on the WCML we have a full gauging study for the Class 222 units, from a recognised gauging company.

We fully understand NR's wish for early certainty on WSMR's rolling stock choice and will immediately update both NR and the ORR when our plans become more fixed.

6. SAFETY RISKS

6.1 Sutton Park Line

We note NR's comments about the Sutton Park Line and a pre-feasibility study. We are currently engaged with the relevant NR Route Infrastructure Director and team and are developing the report jointly.

The quantum of additional trains proposed for the route is very low, especially in the context of the current risk assessments being based on the number of planned s as we have noted at Sections 1.4 a number of current freight paths are unused.

6.2 Weston Rhyn Level Crossing

We welcome NR's confirmation that its current risk assessment (together with the calculations in footnote 5 to NR's letter) shows Weston Rhyn Level Crossing is considered safe to run a further 8 trains per day in each direction.

WSMR seeks to run 5 in each direction from 2025.

We note that NR's concerns regarding future volume of trains using this crossing relate to as yet uncommitted Transport for Wales (TfW) proposals for new services from 2029 and assume that if and when TfW's future services are confirmed NR will put plans in place in respect of Weston Rhyn Level Crossing to facilitate these.

WSMR will be pleased to work with the Wales and Western Level Crossing Team in respect of preparations for and operation of our services.

7. TRACK ACCESS CONTRACT

The Track Access Contract included with WSMR's March 2024 Section 17 Form P is based on the "model Open Access track access contract" provided to us by the ORR in autumn 2023.

If there are subsequent material changes to the template in the April 2024 version NR mentions in its 2nd May 2024 letter which are relevant to our application WSMR will be pleased to make any necessary amendments.

8. ADDITIONAL CONSIDERATIONS

8.1 Diesel traction at Euston Station

NR expresses concerns around the environmental impact of introducing "*additional diesel traction stock into London Euston*". NR had hitherto not raised this matter in any of our joint discussions since February 2023.

Our response is that even with WSMR's proposed services there will be considerably less diesel rolling stock operating in and out of London Euston station than today.

Currently AWC operates a fleet of 18 Class 221 Voyager units in and out of Euston on a daily basis, often up to every hour, which it proposes to withdraw as these are replaced by Class 807 electric and Class 805 hybrid trains.

WSMR is proposing a total fleet of 5 diesel units of which only 3 will be in service each day. This will represent a significant reduction in the amount of diesel rolling stock using Euston.

We also note:

- NR has indicated to prospective operators that no more electric traction can be accommodated on WCML South for the foreseeable future due to electrical supply concerns whilst at the same time expressing concern about the only immediately viable alt
- NR's concern was presumably resolved in respect of Grand Union Trains Stirling-London Track Access application, approved in March 2024, which also proposes use of diesel rolling stock.

The issue of reducing the rail industry's carbon footprint is nevertheless being taken seriously. In our Section 17 Form P we set out actions that we are investigating to help minimise the emissions from our vehicles. In addition, we have prepared a policy for shutting down engines when in stations that will be included in our driver training programme and be actively and regularly monitored.

8.2 Investment Conditions

We welcome NR's interest in how WSMR proposes to bring fresh external investment into the railway. We set out our outline proposals at Section 3.10 of our Business Plan dated 14th March provided in commercial confidence to ORR as an Appendix to the Section 17 Form P.

As NR recognises these proposals fall outside of the formal parameters of the current Track Access application. WSMR will be pleased to discuss them further with NR at a subsequent point when our application has been determined.

We hope it will be possible for NR to withdraw its objections to WSMR's application swiftly, progress the application under Section 18, and enable WSMR to significantly widen the benefit the railway can bring to the economies, communities, connectivity and environments of the WSMR route as soon as possible.

Yours sincerely

Darren Horley
WSMR Mobilisation Director