

James Hickman
Access & International Executive
Email stationsanddepots@orr.gov.uk

BY EMAIL ONLY

31 January 2025

Antonio Urda
Project Director
Evolyn
Calle Serrano 112
28006
Madrid
Spain

Dear Mr Urda

APPLICATION FOR DIRECTIONS UNDER SECTION 17 OF THE RAILWAYS ACT 1993

1. Thank you for your letters dated 5 and 13 December 2024 in connection with Evolyn's application under section 17 of the Railways Act 1993 (the Act). In light of Evolyn's comments in those letters, we are getting in touch to ask Evolyn to advise how it wishes ORR to deal with its application. We explain the reasons for our request below.

Evolyn's letters of 5 and 13 December 2024

2. Evolyn submitted an application under section 17 of the Act for directions in relation to Temple Mills International Depot (Temple Mills). In Evolyn's letter dated 5 December 2024, it indicated that:

"The purpose of Evolyn's application is not, at this point in time, to seek a direction requiring Eurostar to enter into an access contract....Of course, a direction requiring Eurostar to enter into an access contract may be necessary in the fullness of time, if ongoing negotiations fail. However, the primary purpose of Evolyn's application at this stage is to obtain information about the capacity at TMI (as a "railway facility") from Eurostar (as the "facility owner").

3. We also note that at Paragraph 4 of Evolyn's letter dated 13 December 2024 it reiterated this point and noted that:

"... the purpose of its application at this stage is to obtain information about the capacity at TMI. It is for this reason that Evolyn has not provided a copy of the proposed TMI access agreement at this juncture".

Section 17 of the Act

4. ORR's role under section 17 of the Act is to direct a facility owner to enter into an access contract:



“[The Office of Rail and Road] may, on the application of any person, give directions to a facility owner requiring him to enter into an access contract with the applicant for the purpose specified in subsection (2) below; but no such directions shall be given if and to the extent that[...].” (section 17(1))

5. While paragraph 2.27 of [ORR's criteria and procedures for depot access](#) is clear that an applicant may wish to submit a section 17 application if it feels that it is not making sufficient progress with negotiations (and we have written to Eurostar to reiterate that a section 17 application does not prevent the facility owner continuing to engage with an applicant), ORR's powers under section 17 relate to the issuing of directions to a facility owner to enter into an access contract with the applicant.

Current position

6. As we set out to you previously, given the points raised by Eurostar in relation to Evolyn's application, we wished to obtain your representations before reverting to Eurostar.
7. As you know, VTE Holdings Limited also submitted an application under section 17 for directions in relation to Temple Mills, in response to which Eurostar has also raised a number of points.
8. We are currently considering the points raised by the parties in their representations and intend to respond to these under separate cover.
9. We would add that we are still gathering relevant information and a decision on the applications is not imminent. In addition, given the broad stakeholder interest in developing the international rail market and the perceived criticality of TMI as a depot facility, ORR has procured an independent study of available capacity at TMI. We consider that this work needs to be done regardless of any applications for directions for access to Temple Mills. The independent study has not yet concluded.

Next steps

10. In the meantime, as set out above, we wish to clarify with Evolyn how it wishes ORR to deal with its application in light of the matters set out in paragraphs 2 and 3 above.
11. In this regard, paragraph 2(2) of Schedule 4 to the Act provides for an applicant to withdraw or suspend its application at any time by giving notice to ORR, in writing. Therefore, please confirm whether Evolyn wishes to proceed with its application under section 17 or whether it wishes to withdraw or suspend it. Please respond by **7 February 2025**.

Publication of Evolyn's response

12. We may provide a copy of your response, in full, to Eurostar and we may also publish it on ORR's website in line with our usual processes. In line with the approach set out in our previous correspondence to you, if there are any matters that Evolyn considers should not be disclosed or published, please let us know setting out for each proposed exclusion your reasons in order that we can consider this further.



Yours sincerely
James Hickman