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Dear Gareth

Network Rail Response to ORR directions: GBRf 17th Supplemental Agreement and Transport for Wales 4th Supplemental Agreement under section 22A of the Railways act 1993

I refer to your letter of the 26th April 2022 in which you have directed us to confirm Network Rail's position in respect to the proposed GB Railfreight Ltd (GBRf) 17th Supplemental and the Transport for Wales (TfW) 4th Supplemental Agreement and respond with clarification on further points.

1. Network Rail has not explicitly stated why it cannot support GBRf's application, despite our request for its position on the application:

Network Rail did not support Firm Rights for the trains that currently form the GBRf 17th 22a Supplemental, which was initially submitted as part of the separate GBRf 14th Supplemental. This was due to potential clashes with TfW's expected 2 trains per hour aspiration on the Wrexham to Bidston line, which were not fully understood at the time. Network Rail chose to support the rights as contingent and timebound until it further understood the impact of these aspirations which Network Rail expected to clarify through ESG work and Capacity Planning's timetable review. Network Rail has not considered the trains in the GBRf 17th supplemental 22a further through formal section 22 submission as the supplemental was submitted direct to the ORR as a Section 22a. Network Rail has considered these trains as part of the 22a process.

The timeline of events to support Network Rail's position:

- 25th June 2020.
 - 6V41 SuO, 6V41 TThO, 6M42 MO and 6M42 WFO are trains initially submitted to Network Rail for consideration by SoAR as part of the 14th Supplemental.
- 2nd September 2020
 - GBRf submitted 17th Supplemental 22a for external consultation.

- Network Rail has not had to further consider the application of the rights in the GBRf 17th Supplemental until GBRf submitted this supplemental to be consulted externally.
- 14th September 2020
 - SoAR considered the 14th Supplemental and all rights bar 6V41 SuO, 6V41 TThO, 6M42 MO and 6M42 WFO were offered as Firm.
 - 6V41 SuO, 6V41 TThO, 6M42 MO and 6M42 WFO offered as timebound contingent rights until Dec 21 at which point they were intended to be reviewed in line with the Wales ESG specifically relating to the Wales & Borders Rail service commitment to deliver two trains per hour Wrexham.
- 30th September 2020
 - GBRf disagreed with Network Rail's timebound sale offer and resubmitted the GBRf 14th Supplemental without these 4 paths and this supplemental approved by SoAR.
- 25th August 2021
 - GBRf requested Network Rail reconsider the trains as a section 22 supplemental. (Annex A) on the basis that Network Rail cannot withhold support for both supplementals.
- 27th August 2021
 - GBRf were advised (Annex A) that the reason for SoAR not supporting Firm Right's for the 4 GBRf services remained because the aspirations for TfW still existed (as noted in SoAR minutes Annex B) that it could support in the future if subject to's listed above were addressed and resolved.
- 13th September 2021
 - the TfW 4th Supplemental was approved subject to:
 - rights that have outstanding timetable conflicts not resolved through the offer/response process are not authorised,
 - inclusion of a contract clause to cover the level crossing risk,
 - agreement with TfW for rights to be authorised for an agreed period of one year, starting in December 2021, and
 - approval obtained from the NW Route.
- 31st December 2021
 - Network Rail were copied in when GBRf submitted the 17th Supplemental formally to the ORR.

2. Any unresolved issues and what its plan is to resolve them.

- Level Crossing Programme
 - Buckley temporary footbridge was the only remaining interface between the level crossing programme and the introduction of additional TfW services.
 - However, following an internal review it has been decided that the footbridge at Buckley will no longer be required, provided that the risks imported from the non-stopping services can be mitigated through operational arrangements.
 - Subject to the above operational approach being adopted, there will not be any level crossing works required to be complete prior to the introduction of services on the line
- Maintenance Access

- The following position which Network Rail presented in the representation dated 21st December 2021 is still current and relevant.
 - Should all the other constraints including capacity and performance be overcome we would be willing to consider supporting:
 - Prior to the track renewal, implementing the service with the exception of Thursdays.
 - Network Rail and TfWRL enter into dialog under 2.8 Part J of The Network Code, where Network Rail will provide a best estimate of our costs to resource the night time access option.
 - 2022 will see a replacement of the jointed track with continuous welded rail which will enable us to introduce new technology and new ways of working that would remove the need for the basic visual patrol entirely. The renewal is currently scheduled to take place between week 16 and 27 (July – October) 2022.
 - Wales Route and TfW to reach an agreement for the additional maintenance staff to be paid for by TfW, in line with the Network Code.
- TfW fleet readiness
 - The assumptions made during the Network Rail's Capacity Planning time tabling review (Annex C) are based on Class 230's and Class 197's operating the service. Network Rail has become aware of potential delays the introduction of the Class 230 specifically. Network Rail would require confirmation from TfW on fleet readiness, contingency plans and train driver training. Based on the information available, a Principal Change Date 2022 introduction could provide resilience to the fleet introduction programme, but this would need to be confirmed and agreed between all parties.

3. Whether it supports either application for access rights fully, partially, or not at all:

- Network Rail have judged that, where there is a conflict, the best overall economic use of capacity is to prioritise the freight services. We are reviewing the available economic analysis, but the evidence suggests that, even without passenger service costs being fully taken into account, the freight services offer better value-for-money.
- Subject to further quality assurance of that economic analysis, which will be complete within the next week and is not expected to radically change this assessment, Network Rail's position on each Supplemental application is as follows.
 - GBRf 17th Supplemental 22a:
 - Network Rail, consistent with the timetabling review, supports all of the requested Access Rights sought by the GBRf 17th Supplemental.
 - TfW 4th Supplemental 22a:
 - Network Rail believes a 2 trains per hour service is feasible in most hours of the operating day (07:00-19:00). Please refer to Annex C.
 - Network Rail has identified a service pattern which is outlined in Annex D. This would be subject to the outstanding issues advised in section 2 of this representation being resolved.

- In addition to this, TfW would need to accept the revised timetable.
- Network Rail would then be in a position to formally support the timetable and associated Access Rights, subject to the above being completed.
- The final outcome of the economic analysis is expected within the next 7 days and will be forwarded by Capacity Planning as part of the wider timetabling review.

4. Evidence and rationale to support its decisions on access rights;

Network Rail has been able to reach an informed sale of Access Rights decision based on the following

- Capacity Planning timetable review (Annex C)
- The points previously outlined in section 2 of this representation

5. What its recent work has revealed about the need for infrastructure improvements.

Please refer to 2.2.5 of the Capacity Planning timetabling review (Annex C).

- To achieve an increase in the available capacity across this line of route, feedback from timetable and operational subject matter experts, supported by observations from operational visits, suggests that infrastructure improvements would be required. These could include:
 - Installation of a tail lamp camera at CN926 as it would allow to signal train out of section to Penyffordd once train had passed
 - Making platforms 1 and 2 at Wrexham General bi-directional for operational flexibility and dealing with perturbation
 - Crossover points at Croes-Newydd to increase train routing flexibility

6. Given the outcome of its timetabling review, what its position is regarding a declaration of congested infrastructure, in accordance with the Regulations.

- Please refer to 3.2 of the Capacity Planning timetable review (Annex C).
- A declaration of congested infrastructure will be required, as we have not been able to fully accommodate all services aspirations.
- It is Network Rail's aspiration to present a paper to Operational Planning Strategy Group and Sale of Access Rights panel in June/July 2022, in line with the process outlined in Network Rail's code of practice.

Yours sincerely,

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