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Executive, Access & Licensing
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13 December 2024

Dear Ms Procter and Office of Rail and Road (“**ORR**”),

EVOLYN’S APPLICATION FOR DIRECTIONS UNDER SECTION 17 OF THE RAILWAYS ACT 1993

1. Evolyn refers to the ORR’s letters dated 8 November 2024 and 4 December 2024 regarding Evolyn’s application relating to Temple Mills International Depot (“**TMI**”) under section 17 of the Railways Act 1993 (the “**Act**”). Reference is also made to representations made in respect of Evolyn’s application, namely:
 - a. Eurostar’s representations contained in its letter dated 25 September 2024 in respect of Evolyn’s original application form (“**Eurostar’s Initial Representations**”);
 - b. Eurostar’s representations contained in its letter dated 21 November 2024 in respect of Evolyn’s updated application form (“**Eurostar’s Further Representations**”)

(together, “**Eurostar’s Representations**”); and
 - c. Evolyn’s representations contained in its letter dated 5 December 2024 in reply to Eurostar’s Initial Representations (“**Evolyn’s Initial Representations**”).
2. As requested by the ORR in its letter of 4 December 2024, this letter sets out Evolyn’s reply to Eurostar’s Further Representations. For ease of reference only, Evolyn has incorporated the subheadings adopted in Eurostar’s Further Representations.
3. Evolyn notes that many of the assertions made in Eurostar’s Further Representations (which pre-date Evolyn’s Initial Representations) echo those made in Eurostar’s Initial Representations and so have already been addressed in Evolyn’s Initial Representations. Evolyn will not repeat what is in Evolyn’s Initial Representations (which should be read along with this letter), but will confine itself to addressing certain discrete points in Eurostar’s Further Representations.

Evolyn’s proposed depot access agreement

4. Central to Evolyn's application and the focus of Eurostar's Representations in response focuses on the *purpose* of Evolyn's application. As stated at paragraph 3 of Evolyn's Initial Representations, 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.
5. Eurostar's assertion that Evolyn has sought to circumvent the process for access as set out in Eurostar's Service Facility Description for TMI ("**Eurostar's Access Process**") is misguided and denied.¹ Eurostar at paragraph 5 of Eurostar's Further Representations says that "*Considerable progress can be made through the Access Process*". However, it cannot while there is no objectively clear information about the capacity at TMI. Absent such clear information, Evolyn has been forced to make its application. Evolyn refers to paragraphs 3-5 of Evolyn's Initial Representations, including the explanation of why information about capacity of TMI is "*necessary information*" that should be provided by Eurostar "*in a timely manner*".
6. As to Eurostar's suggestion that Evolyn's application is premature,² Evolyn has addressed this in Evolyn's Initial Representations, including paragraphs 3-5 and 9. We insist that Evolyn has provided Eurostar with all technical documentation regarding the rolling stock and a detailed technical report and Eurostar has not confirmed in such information is not enough and the technical reasons of such representation. The only statement from Eurostar in this sense, is that Evolyn has not facilitated information with technical evidence of compatibility with the line access to TMI. However, we have already clarified that such lines access belongs to HS1 and will be part of the homologation process. Of course, Evolyn is absolutely aware that the rolling stock finally operated through the Eurotunnel must be homologated with several institutions in order to make sure that the rolling stock will be technically compatible with all the railway infrastructures from St. Pancras to Paris, but such homologation process must be done in due time but not now.

Access rights, capacity and alleged benefits

7. Despite using the term "capacity" in this heading, Eurostar studiously avoids referring to capacity of TMI anywhere in Eurostar's Further Representations. There is simply no acknowledgement from Eurostar that clear information about capacity of TMI is essential or that it is ready and willing to provide such information.³ Yet there is no suggestion from Eurostar that it cannot provide such information, and nor could Eurostar suggest that given that it is at present the sole operator of TMI.⁴

¹ Eurostar's Further Representations, at paragraph 10.

² Eurostar's Further Representations, at paragraph 14.

³ The closest Eurostar comes to addressing the point is where it coyly refers to "the output of further exploration" between Evolyn and Eurostar (Eurostar's Further Representations, at paragraph 14) and to "the appropriate process for exploring whether the facilities and services Evolyn currently believes it requires can be supplied at TMI" (paragraph 21).

⁴ See also paragraphs 5 and 8 of Evolyn's Initial Representations.

8. While remaining silent on its own response to the question of capacity of TMI, Eurostar's Further Representations in fact helpfully highlight the importance of such capacity information: it quotes Evolyn's response to question 2.4 where Evolyn makes clear that it will only be able to be more specific in its application "*when we know what access will be available*".⁵
9. Eurostar then claims that "*Evolyn has not, in fact, satisfied itself that the facilities and services it requires can be supplied at TMI*".⁶ It cannot be right that Eurostar can sit on the necessary capacity information about TMI while at the same time complaining that Evolyn has not demonstrated that the capacity at TMI is going to be sufficient. It is this very log-jam which Evolyn's application to the ORR is seeking to remove.
10. In relation to the remainder of paragraphs 16-21 of Eurostar's Further Representations, Evolyn repeats the points made in Evolyn's Initial Representations, including but not limited to those made at paragraphs 3-7.

Charges / Enhancement

11. In relation to paragraphs 22-28 of Eurostar's Further Representations and considering the purpose of Evolyn's application as articulated in Evolyn's Initial Representations at paragraph 3, issues surrounding charges and enhancement should be discussed between the parties and (to the extent necessary) directed by the ORR at the appropriate stage *after* the necessary information regarding capacity at TMI has been made available. Evolyn's updated application, in response to which Eurostar's Further Representations were settled, clearly state this:
 - a. In relation to charges, see Evolyn's response to question 4 (set out here with added emphasis⁷): "*Not applicable yet, as this application is focused on the access to TMI, later on we will initiate commercial discussions and charges.*"
 - b. In relation to enhancement, Evolyn's response to question 2.4 (referred to above and quoted in Eurostar's Further Representations⁸) states: "*We will of course be able to be more precise when we know what access will be available and what physical amendments will need to be made inside the depot to accommodate our rolling stock*" (emphasis added).

Associated applications and access

12. Regarding Eurostar's representation relating to Evolyn's access to French infrastructure and the Channel Tunnel,⁹ Evolyn repeats paragraph 18 of Evolyn's Initial Representations.

⁵ Eurostar's Further Representations, at paragraph 13.

⁶ Eurostar's Further Representations, at paragraph 21.

⁷ Eurostar's Further Representations, at paragraph 22.

⁸ Eurostar's Further Representations, at paragraph 27, but quoted more fully in paragraph 12.

⁹ Eurostar's Further Representations, at paragraph 38.

13. Regarding Eurostar's representation relating to the possibility to coordinate or deal of Evolyn's and VTE's applications in parallel provided in paragraph 31 of Eurostar's Further Representations, Evolyn represents that VTE and Evolyn are different and independent entities and operators with no relationship or connection at all between them. Evolyn is not even aware of any application coming from VTE. Therefore, we do not understand why a parallel process for coordination or deal should be considered.
14. On the other hand, we do not understand Eurostar's representation provided in paragraph 37 of Eurostar's Further Representations. Of course, Evolyn is aware that St. Pancras International is managed by HS1 and perfectly knows all the entities involved in all the UK and French railway infrastructure. However, it is also true that there are some parts of St. Pancras International which are controlled by Eurostar (commercial space, vip zone, loading and unloading terminal for foods, among others). Therefore, some access to some parts of St. Pancras International should be coordinated with Eurostar and some other with HS1. However, this is something that Evolyn will be very happy to clarify with both, Eurostar and HS1.
15. Finally, under "Overview" Eurostar suggests that the ORR might "*continue its consultation process(es)*" in a non-conventional form.¹⁰ This repeats a theme in Eurostar's Initial Representations that the process for depot access needs to be fundamentally different from that with which ORR is familiar, and that requires an entirely new process to be designed, subject to a (no doubt Eurostar would insist, lengthy) period of consultation. We set out why we say that cannot be correct at paragraphs 16-20 of Evolyn's Initial Representations.
16. Evolyn trusts that these representations will be of assistance, and it repeats that its section 17 application provides proper context for the ORR to facilitate the provision of information about capacity.

Yours sincerely



Evolyn Mobility Ltd.

¹⁰ Eurostar's Further Representations, at paragraph 7. See also paragraph 11, where Eurostar claims that "ORR has not set out any principles or guidance on its approach to considering depot access terms for cross-border passenger services".