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OFFICE OF **RAIL REGULATION**

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Dear Angela

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED CAMBRIAN RAILWAYS ORDER

Thank you for consulting the Office of Rail Regulation (ORR) regarding an application for a Transport and Works Act Order (TWAO) made to the Secretary of State by Cambrian Heritage Railways Limited. We understand that the proposed Order – if made – would transfer the statutory powers and obligations of five existing railways comprising the branch railway between Gobowen and Blodwell from Network Rail Infrastructure Limited to Cambrian Heritage Railways Limited.

ORR is aware of this branch line and Cambrian's desire to re-open it, including the crossing points, and has been in contact with them to express our position. That position is:

- ORR has an established policy that there should be no new (or reinstated) level crossings on any railway - including this one - unless there are exceptional circumstances; and
- having visited the sites of the proposed crossings and discussed the matter with the Highways Agency, were an application to be made for a TWAO including level crossings, ORR would lodge an objection on the grounds of safety.

Most recently in October 2014 representatives of ORR were presented with indicative designs for the crossing of the A5 and the A483 **without** level crossings - a tunnel under the A5 and a bridge over the A483. We confirmed that if powers were included in a transfer Order for a tunnel under the A5 and a bridge over the A483, with abandonment of all the existing level crossings, then ORR would raise no objections. We also advised that any transfer Order should be for the reinstatement of railway between Gobowen and the existing railway that operates between Llynclys station and Pen Y Garreg Lane, that ORR

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would not support the reinstatement of the railway from Llynclys Junction to Llanddu Junction and that this section of the railway should not therefore be included in the draft Order. So, we think that the actual TWAO application lodged by Cambrian with you is a major departure from the position that we had previously understood.

This letter should therefore be treated by DfT's TWA Unit as ORR's formal objection to the proposed TWAO.

Whilst we have no issue, in principle, with the general powers and obligations transferring to Cambrian, we do have issues concerning the rights to level crossings. Given that the proposed level crossing sites are on high volume/high speed carriageways, there would be significant (and potentially catastrophic) risks to the railway and we cannot envisage a situation where level crossings would be appropriate or permissible whatever protective arrangements were put in place.

We would therefore advise that if the Secretary of State were minded to accept the transfer of the general powers and obligations that he modifies the proposed Order to remove condition 4 from the draft Order, worded –

"Regardless of the effect of article 3(1) of this Order, the undertaker must not, without the consent in writing of the Office of Rail Regulation, operate –

> *(a) railway no. 1 at the point where it is crossed by the A5 trunk road at Pentre Clawdd; and*
>
> *(b) railway no. 2 at the point where it is crossed by the A483 trunk road at Weston,*

over the level crossing at those points."

In addition, we would further advise that the Secretary of State considers making it an explicit provision in the proposed Order that either:

> (a) any transfer of rights, powers and privileges under Article 3 does not include the right to operate level crossings over the A5 or A483 trunk roads; or
>
> (b) expressly includes a prohibition on opening such level crossings.

In our view, this is the most appropriate way of ensuring that level crossings will <u>not</u> be put in place – because the inclusion of a condition (such as condition 4, above), irrespective of how it is worded, implies that level crossings *could* be contemplated (by ORR) at the

location/s subject to certain requirements being met. We do not consider that to be the case.

We also note that the draft TWAO condition above makes no reference to the Highways Agency (HA). The HA has a corresponding policy to that of ORR's of "no new accesses on the strategic road network unless there are exceptional circumstances" and is the body that can provide the requisite, authoritative **road** safety view and consents needed in this case. We have forwarded the draft to our contact there as we understand that, despite being a statutory consultee, the HA has not received it.

Similarly, the draft Order is silent on the fact that there are other crossings that could be accessed and reopened via the A483 crossing and that these too would be at locations giving further cause for concern (the A495 and over School Lane). We think that these should also be excluded from any transfer, or their opening prohibited, in line with our advice above.

I hope this letter clarifies ORR's position in this matter. We would be happy to discuss the case with you or to provide any further information that might be helpful.

Yours sincerely

John Gillespie

HM Assistant Chief Inspector of Railways

Chairman of ORR's Level Crossings Co-ordinating Group