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21 April 2021

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Rob Holder
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Dear Richard and Rob

Approval of the 73rd supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First Greater Western Limited (the TOC) dated 4 March 2016

We have today approved the above supplemental agreement submitted to us formally on 21 April 2021 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this supplemental agreement is to allow the TOC, in agreement with Network Rail, to suspend Schedule 8 on the Windsor Branch Line for the three days around The Duke of Edinburgh's funeral. This allowed the more frequent running of shuttle services, which might have been required to run services more flexibly in line with circumstances – without the TOC being unduly financially affected by the Schedule 8 provisions. The amendments apply only from 0200hrs on Friday 16 April to 0159hrs on Sunday 18 April and so will be retrospectively applied.

Industry consultation

As no other operators run services on this branch line, this supplemental agreement has no effect on them and therefore did not require industry consultation.

ORR review

ORR notes that there is a precedent for this approach, namely the Royal Wedding in 2018 when a similar suspension of the provisions in Schedule 8 was undertaken. We take the view that the reasons for this approach provided by the access parties were reasonable in the circumstances; namely, the safety concerns posed by the potential for large numbers of people wishing to travel on this line were best addressed by the creation of a shuttle service as needed. We also note that the short notice of the event due to its being a funeral makes a Schedule 8 amendment the most expedient way to apply these temporary changes. We would, however, consider this to be an exception to the way in which we would normally consider supplemental agreements.

We identified some drafting issues with the part of the agreement concerning the effective date and retrospective application of the amendment, and these were resolved when the agreement was formally submitted.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

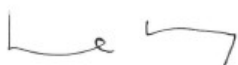
Conformed copy of the track access agreement

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Louise', followed by a stylized flourish.

Louise Beilby