

**Louise Beilby**  
**Access Executive**  
Telephone: 0207 282 2076  
E-mail: [louise.beilby@orr.gov.uk](mailto:louise.beilby@orr.gov.uk)



26 April 2021

Robert Neep  
Customer Manager, LNW Route  
Network Rail Infrastructure Ltd  
Baskerville House  
Centenary Square  
Broad Street  
Birmingham  
B1 2ND

Chris Hassall  
Head of Commercial Contracts  
First Transpennine Express Ltd  
8th Floor, Bridgewater House  
60 Whitworth Street  
Manchester  
M1 6LT

Dear Robert and Chris

**Approval of the 38th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First Transpennine Express Limited dated 3 March 2016**

We have today approved the above supplemental agreement submitted to us formally on 26 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 agreement is to extend the expiry dates of a number of contingent rights from the Subsidiary Change Date (SCD) 2021 until SCD 2022. These rights were granted in May 2020 with a view to assessing any impact they might have on performance. However, with the onset of COVID-19 and the operation of a reduced timetable, the services have not been running as planned. This application therefore extends the rights and allows for a period where they are assessed in terms of their impact on performance.

**Industry consultation**

Network Rail undertook the usual industry consultation. No queries or issues were raised.

## **ORR review**

Our review of the application raised no operational, performance or economic concerns. We are content that the extension of the rights is justifiable and necessary in light of the unexpected impact of the pandemic on service operations.

## **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)).

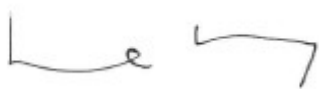
## **Conformed copy of the track access agreement**

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 Beilby', with a stylized flourish at the end.

**Louise Beilby**