

Louise Beilby
Access Executive
Telephone: 0207 282 2076
E-mail: louise.beilby@orr.gov.uk



5 May 2021

Mark Garner
Customer Manager
Network Rail Infrastructure Ltd
George Stephenson House
Toft Green
York
YO1 6JT

Phil Dawson
Business Planning Manager
London North Eastern Railway Ltd
East Coast House
25 Skeldergate
York
YO1 6DH

Dear Mark and Phil

Approval of the 22nd supplemental agreement to the track access contract between Network Rail Infrastructure Limited and London North Eastern Railway Limited dated 3 March 2017

We have today approved the above supplemental agreement submitted to us formally on 5 May 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 duration of Part B of Schedule 5 of LNER's track access contract to May 2022 in line with Network Rail's ECML policy; to reduce firm rights in Part B of Schedule 5 between London and Middlesbrough to 1 firm right each way; and to delay the start of Part C of Schedule 5 to May 2022 in line with the ECML ESG timetable start. The rights are to commence on the Subsidiary Change Date 2021 and will expire on the Principal Change Date 2025.

Industry consultation

As this supplemental agreement constitutes a reduction in firm rights, it was agreed with ORR that an industry consultation was not required.

ORR review

Schedule 5 of LNER's contract is in several parts, two of which are labelled B and C. Prior to this application, Part C was due to commence on SCD 2021, and included 7 firm rights between London and Middlesbrough. Part B contained only contingent rights on this route and was due to expire on SCD 2021. By delaying the start of Part C for another year, and extending Part B for a year, a reduction in quantum is effected.

Our review of the application raised no operational, performance or economic concerns. We identified some minor drafting issues 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)).

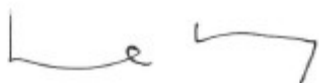
Conformed copy of the track access agreement

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 to 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 black ink, appearing to read 'Louise', followed by a stylized flourish.

Louise Beilby