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5 August 2021

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Mark Walker
Strategic Planning Manager
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London
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Dear Eleanor and Mark

Approval of the 78th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Arriva Rail London Limited dated 9 November 2007

We have today approved the above supplemental agreement submitted to us formally on 4 August 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 grant Arriva Rail London the rights necessary to extend the current Gospel Oak to Barking service to the new station at Barking Riverside, planned for completion by July 2022. The rights are to commence on the Subsidiary Change Date 2022 and will expire on the Expiry Date or earlier termination of Arriva Rail London's track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. Queries were received from c2c, enquiring about the performance modelling mentioned on the application, and the Department for Transport, requesting a specific regulation around the interaction between the new services and existing ones run by c2c. Both queries were resolved to the satisfaction of the enquiring parties.

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GB Railfreight raised a number of queries - it requested clarity on how the running of the services beyond Barking Station Junction would be affected by a Timetable Planning Rule (TPR), about planning headways and line capacity on the Barking flyover, and about a small variance in the quantum of services in this application and the number of train slots in the timetable. All of these queries were answered to GBRf's satisfaction by Arriva Rail London.

Both GBRf and Network Rail questioned whether changes to TPRs, not brought about by Network Change, could potentially have an effect on the ability of train operators to satisfy themselves on capacity issues. We consider that this question does not have a direct bearing on the supplemental agreement at hand, and as matters stand we offer no further comment here on Operational Rules covered by the provisions of the Network Code.

ORR review

We had a number of operational queries, which Arriva Rail London answered to our satisfaction. There were no drafting issues which required correction before formal submission.

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)).

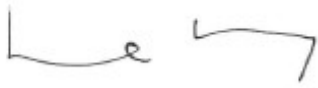
Conformed copy of the track access agreement

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 black ink, appearing to read "Le" followed by a stylized flourish.

Louise Beilby