

Margret Haswell

Executive, Access and Licensing
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20 April 2022

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Nigel Oatway
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Dear Megan and Nigel,

Amendment of a track access contract between Network Rail Infrastructure Limited and DB Cargo (UK) Limited: Forty Fifth Supplemental Agreement.

1. On 7 April 2022 the Office of Rail and Road (ORR) approved the forty fifth Supplemental Agreement (SA) to the track access contract (TAC) between Network Rail Infrastructure Limited (Network Rail) and DB Cargo (UK) Limited (DBC) under section 22 of the Railways Act 1993 (the Act), submitted to us on 5 April 2022. This letter sets out the reasons for our decision.
2. This letter has been amended since ORR approval 7 April 2022 to improve the clarity of paragraph 3.

Background

3. This SA amends 2 existing one hour firm rights. The amendment seeks to protect the current freight capacity that DBC has secured in the current working timetable. Precise timings are required to mitigate local environmental constraints regarding noise.
4. The rights operate between Cliffe Brett Marine and Stewart's Lane Day's. We note from the Special Terms column that the Heavy Axle Weight (**HAW**) restricted 7U71 has only been granted RA10 provided Network Rail has issued a valid dispensation authorising RA10 capability over the route concerned.

Consultation

5. This agreement went out to consultation between 11 January 2022 and 15 February 2022. There are no outstanding unresolved issues.

ORR Review

6. We received an informal submission from Network Rail on 16 February 2022. We note that one hour windows have been requested by the parties to provide some certainty to the train slots as the Origins and Destinations are restricted to set opening times due to their proximity to residential areas.

7. Noise complaints raised by residents and the council resulted in the train plan contained in this SA which has helped to mitigate those concerns. No operational or capacity concerns were identified as part of this application.
8. The extract from the Rights table, cited in the Supplemental Agreement, uses **yellow** to highlight the changes being made. We usually recommend that changes include a key where colour-coding has been used. This is for the complete avoidance of doubt for future users, to show what the colours represent.

ORR Decision

9. This application is under section 22 of the Act and therefore is agreed between the parties and there are no outstanding issues. We are content to approve this agreement.
10. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
 - (i) to protect the interests of users of railway assets;
 - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
 - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
 - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

Conformed copy

11. Under clause 18.2.4 of the TAC, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and DBC. I look forward to receiving the conformed copy.

Yours sincerely



Margret Haswell