

Claire Brooks
Access Executive



5 August 2024

Sophie Grieves
Customer Manager
Network Rail Infrastructure Ltd
Waterloo General Office
London, SE1 8SW

Graham Kelly
Operations Director
Caledonian Sleeper Ltd
1 – 5 Union Street
Inverness, 1V1 1PP

Dear Sophie and Graham,

Approval of the 7th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Caledonian Sleeper Limited (trading as Caledonian Sleeper) dated 2 March 2018

We have today approved the above supplemental agreement submitted to us formally on 30 July 2024 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 Caledonian Sleeper Limited an extension to its Track Access Contract, from PCD 2024 until PCD 2030. This aligns with the current Grant Agreement between the Scottish Government and the Operator, which runs until March 2030. The agreement also amends the Specified Equipment in Schedule 5 to reflect that Class 90s no longer operate on this network.

This application has changed since the original informal submission on 3 June 2024. That submission contained a change to Caledonian Sleeper Limited's platforming rights at Euston station, making them firm (rather than contingent) for a specific period. Network Rail subsequently changed its view on this matter and decided that it could not support this part of the application. ORR then asked Network Rail to submit a revised application, without the amendment to Euston platforming rights, which was received on 15 July 2024. Network Rail has advised that a proposed amendment to those rights will be submitted as a separate application.

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Industry consultation

Network Rail undertook the usual industry consultation, on the original application, ending on 31 May 2024. Greater Western Railway submitted comments regarding the proposal to change Caledonian Sleeper Limited's platforming rights at Euston station from contingent rights to firm rights for a specified period. However, as that proposed amendment has now been removed from the application, Greater Western Railway's comments no longer apply to this revised application. There were no issues raised about the extension to the contract or the proposed amendments to remove reference to Class 90 rolling stock from the Specified Equipment in Schedule 5.

ORR review

Our review of this revised application raised no operational, performance or economic concerns. The length of the extension to the contract is in line with our guidance on the duration of track access framework agreements. We identified some minor drafting issues, and these were resolved when the agreement was formally submitted.

Platforming at Euston station

Network Rail did not keep us fully and promptly informed about its evolving position on platforming issues at Euston station and the direct impact on this application. This lack of information could have led to us making a decision on this Supplemental Agreement based on incorrect information. In turn, this would likely have had consequences for the platforming situation at Euston station. Network Rail must be mindful of this risk in all future applications.

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

C Brooks

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