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Senior Access Executive



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Dear Alexis and Malcolm

Approval of the 44th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and London North Eastern Railway Limited (trading as LNER) dated 3 March 2017

We have today approved the above supplemental agreement submitted to us formally on 15 April 2025 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. ORR's approval of this application will extend existing services to and from Bradford Forster Square on Saturdays and Sundays, providing more options to passengers travelling at weekends. This letter explains the reasons for our decision. It also explains ORR's position on the concurrent application that LNER has submitted in accordance with section 22A of the Act.

Concurrent section 22A application

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. LNER submitted several such applications on 20 May 2024.

In reaching a decision on this supported 44th supplemental agreement, it is important to clarify that:



- ORR has reached its decision in the full knowledge of LNER's concurrent section 22A applications;
- LNER's section 22A applications remain "live" and we continue to try to progress them. However, ORR is not currently in a position to reach a decision in relation to those applications. Additionally, Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible; and
- most importantly, the approval of the 44th supplemental agreement ensures that LNER has approved access rights in the May 2025 timetable.

Purpose of 44th supplemental agreement

The purpose of the 44th supplemental agreement is to allow the extension of further LNER services to and from Bradford Forster Square at weekends within the framework of the current LNER timetable should a revised timetable not be introduced at the Subsidiary Change Date (SCD) in May 2025. These changes amount to a total of six services between Leeds and Bradford in each direction on Saturdays and one additional service in each direction on Sundays. These will be extended from existing services between Leeds and London.

It should be noted that this is a slightly modified element of LNER's 36th supplemental agreement, a disputed (S22A) application, which has been agreed to by Network Rail in a reduced form.

The rights are to commence on SCD 2025 in May and will expire on the Principal Change Date (PCD) in December 2025.

Network Rail noted that it could only agree to these additional access rights until PCD 2025 due to potentially competing applications from other train operators, and that there could be no presumption of the continuation of these additional rights beyond PCD 2025.

Industry consultation

Network Rail undertook the usual industry consultation for one month from 4 March. A comment in support was received from Transport Focus.

Northern Trains queried whether the services feature in the proposed SCD 2025 timetable, and Network Rail confirmed that they do. Northern also asked about LNER's contingency plans should the planned Platform 0 at Bradford Forster Square not be completed in time

for the start of services, and whether this would have any impact on Northern's own services. Network Rail stated that some of the extensions would, in this scenario, not be able to run, and that there may subsequently be retiming of some Northern services. Northern asked to be kept informed of any further discussions but did not raise further queries.

ORR review

We had no issues with this application from an operational point of view. However, we noted that during the industry consultation for the 36th SA, from which the 44th SA is derived, Grand Central commented that it expected that LNER would be subject to the appropriate level of economic assessment during our review, given that additional calls at Bradford had the potential to abstract revenue from the services of other operators.

Our [guidance on the use of capacity](#) explains that we would expect to apply the 'not primarily abstractive' (NPA) test to "a new service, which might be open access or public service operator, which would compete with an existing open access service and which, if it caused the existing open access operator to withdraw from the market, could reduce overall competition on the network".

We therefore carried out the NPA test on these new services. Our analysis showed that they have an NPA ratio of 1.29:1, which comfortably exceeds the 0.3:1 threshold. About 23% of the total abstraction is from Grand Central (the rest being from Northern, a public service operator). This represents a very low percentage of Grand Central's Saturday and Sunday revenue across all of its services. From this, we have concluded that approval of this application is reasonable and in line with our duties under section 4 of the Act.

We noted Network Rail's position on the continuation of additional rights on these services beyond PCD 2025 due to competing aspirations from other train operators. In light of this, our usual policy of a strong presumption of the continuation of existing rights will not apply beyond PCD 2025.

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

Louise Beilby