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8 July 2025

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Dear Alexis and Lanita

20th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Transport UK East Midlands Limited (trading as East Midlands Railway (EMR)) dated 1 September 2020

1. Today, we have issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and EMR (jointly the parties) to enter into the above supplemental agreement. This letter explains the reasons for our decision. ORR's approval of this application will improve Sunday morning services between the East Midlands and Manchester, give passengers a direct route from Manchester to Norwich, and give the train operator certainty for the purposes of planning its business.

Background

2. On 24 April 2024, ORR wrote to industry setting out a process for access applications for December 2024, May 2025 and December 2025, given our expectation (as confirmed by Network Rail) that we would receive numerous complex and competing applications across that period. Applications were submitted to ORR for direction as "unsupported" applications, as Network Rail was not able to agree that there was sufficient capacity and therefore submit agreed applications for our approval.

3. [DfT wrote to us](#) on 20 June 2025 referring to “the cumulative scale and impacts of abstraction when [ORR] assesses Open Access applications” and asking ORR that this should be “factored into all future decision-making”. To ensure that we were able to proceed with decision making for relevant public service operators, we had to clarify the DfT letter before finalising our decisions.
4. As we were already at an advanced stage in the decision-making process for this and many other applications by this point, [we wrote to DfT](#) stating that we intended to proceed with our established approach to access applications for the East Coast Main Line (ECML) in order to support the major timetable change coming up in December 2025 and to avoid risk to that timetable’s implementation. As we did not receive a response by Monday 7 July we have proceeded with decision making in line with our published policy.

Application

5. The purpose of this supplemental agreement is to grant EMR the rights necessary to operate one additional Sunday service from Nottingham to Manchester Piccadilly via Derby, and to extend one current Sheffield to Norwich service to start from Manchester Piccadilly.
6. The rights are to commence upon the Principal Change Date in December 2025 and will expire on the expiry date or earlier termination of EMR’s track access contract.

Industry consultation

7. The initial industry consultation took place from 21 May to 24 June 2024. Comments in support or stating no objection were received from TransPennine Trains (TPT), Northern Trains, Great Western Railway, and DB Cargo.
8. West Yorkshire Combined Authority stated that it would not be supportive of any additional services that had a negative impact on existing TPT or Northern services, and that it was not yet clear whether or not this would be applicable to this application (although ORR would note here that neither TPT nor Northern raised any objections). Similarly, Freightliner stated that it did not yet have enough information about other potential applications in the area and Network Rail’s plans to accommodate them to be able to offer its support.
9. Industry was then invited to comment on Network Rail’s final representations from 8 to 29 April 2025, and during this time no further comments were received. In line with ORR’s duty to ensure fair access to the railway network, we have checked Freightliner’s current outstanding applications and we have not found any conflicts between its aspirations in this area and those in this application. We have concluded that its lack of response to the most recent opportunity to comment means that it does not have any objections to EMR’s request at this stage.

Statutory Consultation

10. As required under the Act, on 30 May 2024, we sought Network Rail's representations on the application and it replied on 28 June 2024. We forwarded these representations to EMR and asked for its comments, which it provided on 22 July 2024.
11. Following the completion of Network Rail's capacity analysis on the ECML and the other interacting locations associated with this application, namely Sheffield and Derby, it sent its final representations on 4 April 2025. Again, we forwarded these to EMR and asked for its comments, which it provided on 24 April 2025.

Network Rail's representations

12. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the application because it requested firm rights on the ECML and Sheffield and Derby which were included in the list of 10 interacting locations identified by Network Rail as containing competing aspirations and subsequently listed by ORR in its letter of 24 April 2024. As a result, there are several other applications which impact on the ECML as a whole and Sheffield and Derby specifically. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.
13. EMR's response to the initial representations pointed out that this application was for a small number of rights on a Sunday morning, which is not a busy time on the network and the addition of these services would therefore not negatively impact any other operators. It also stated that the application was not dependent on the outcome of the ECML Event Steering Group (ESG) timetable.
14. In its final representations, Network Rail stated that it was now in a position to support all of the quantum of rights requested but not the call at Dronfield for the Nottingham to Manchester Piccadilly service, as this call is not in the timetable. Subsequently to this, Network Rail advised that the application had stated that the routing of the service would be via Dronfield, but there was no request to call there. It therefore supports the application as it was originally submitted.
15. EMR's response to the final representations concurred with Network Rail's conclusions.
16. We also note that EMR has not requested all of the quantum of rights and calling patterns that were expected as per the ECML ESG timetable. Where this is the case, EMR will be applying to implement these rights in a separate supplemental agreement.

ORR review

17. We carried out a full review of the supplemental agreement, taking into account issues that were being considered in relation both to this application and to the competing demands on capacity on the wider network.
18. Access rights are approved or directed on a quantum basis. It is for Network Rail to produce a robust timetable to accommodate them. This application includes services which Network Rail has included in the East Coast Mainline Event Steering Group (ECML ESG) timetable for December 2025.
19. Since 2019, Network Rail has offered operators only contingent or time-limited rights, providing limited certainty for businesses. The ECML ESG was set up to transparently develop a timetable which considered the service specifications and aspirations of timetable participants for implementation. This process was cross-industry, involving public service, freight and open access operators.
20. For these reasons, in reaching our decision we have placed weight on reducing or ending the uncertainty of this period, in line with our duty of enabling operators to plan their businesses with a reasonable degree of assurance.
21. As referred to in the Network Rail representations, in late 2024, the Secretary of State and Department for Transport (DfT) accepted the recommendation to start the timetable in December 2025. This follows investment by the DfT in rolling stock and infrastructure to enable faster and more frequent services on the ECML. We consider directing the rights in this application supports our duty to have regard to guidance from the Secretary of State in terms of the value for money from public investment as well as the funds available to the Secretary of State.
22. Network Rail expects that implementing the ECML ESG timetable will lead to a limited reduction in train service punctuality. Network Rail is assuring us of the operational and timetable alterations it is leading with industry, to mitigate this reduction. It expects to be able to identify and implement further improvements following the introduction of the timetable.
23. In weighing all of our duties, reviewing the capacity and performance on the ECML and wider network, we consider directing rights which can be used to implement a longer-term baseline timetable, in this case the ECML ESG, is preferable to the alternative. Furthermore, we will continue to hold Network Rail to account to ensure the proposed timetable delivers the expected benefits to passengers, funders and freight operators.
24. We have looked more widely at other applications from both passenger and freight operators to run services in the same area and we do not believe that there is any direct conflict with their requests for capacity, such that the approval of this application would preclude us from approving any others.

25. Overall, we concurred with Network Rail's assessment on the basis that this is a small increase in quantum on a Sunday morning, and we concluded that we would direct the application as it was submitted.

Our duties under section 4 of the Act and our decision

26. We have considered this supplemental agreement and we have concluded that its approval is consistent with the discharge of our statutory duties under section 4 duties 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));
- enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)); and
- having regard to the funds available to the Secretary of State (section 4(5)(c)).

27. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should approve the application.

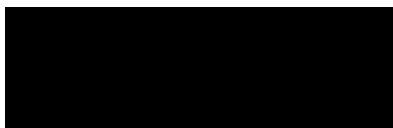
Conformed copy of the track access contract

28. 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 EMR. ORR's copy should be sent for my attention.

Public register and administration

29. Electronic copies of this letter, the approval notice and the supplemental agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the supplemental agreement will be placed on ORR's public register (website) and copies of this letter and the supplemental agreement will be placed on the ORR website.

Yours sincerely

A large black rectangular box redacting the signature of Louise Beilby.

Louise Beilby