

To: Louise Beilby
Senior Access Executive, ORR
Office of Rail and Road
25 Cabot Square
London
WC2B 4AN

Copied: Alice Kaiser, ORR

12th August 2025

Dear Louise,

Transport UK East Midlands Limited (“EMR”) response to Network Rail’s Final Representations on EMR’s 19th Supplemental Agreement

Introduction

Thank you for the opportunity to respond to Network Rail’s final representations dated 22nd July 2025 regarding EMR’s Section 22a application for the 19th Supplemental Agreement for the extension of Crewe – Newark Castle services to Lincoln from December 2025.

In line with ORR’s request for access rights applications for the three timetable changes starting in December 2024, May 2025 and December 2025 to be submitted by 20th May 2024, EMR submitted this application to the ORR on 20th May 2024, and thenceforth, EMR has fully engaged with Network Rail to discuss the application and shared all the assessments and performance modelling report EMR undertook with Network Rail.

On 28th June 2024, Network Rail submitted its initial representations to the ORR, of which Network Rail failed to provide the necessary and relevant information to support ORR’s review on EMR’s proposals in this application. EMR responded to Network Rail’s initial representations on 22nd July 2024 and highlighted the rationale and significant benefits that would be delivered by this proposed Supplemental Agreement. Our proposals will improve connections across the regional network and build in performance improvements to the structure of the timetable. We would request the ORR to refer and include all the information and details provided in our response to NR’s initial representation in its decision making on this application.

EMR notes that Network Rail is only part-supportive of the access rights sought in this application in terms of quantum of rights, on a contingent basis for 12 months till December 2026 timetable change, with no presumption of continuity as opposed to firm as requested for in the application. We appreciate the challenges that Network Rail and ORR have in dealing with many applications from train operators particularly for applications that interact with the ECML, and understand that Network Rail must be consistent in its approach to all applications. However, this application seeks rights to cross, rather than traverse the ECML, over the Newark Flat Crossing and Network Rail has mentioned

that the impact is expected to be primarily on EMR's own services and not on East Coast services. As such, we disagree with Network Rail's recommendation for its support of access rights in this application on a contingent basis only.

Having examined the comments / data in this final representation, we reject Network Rail's final position as we do not believe that Network Rail has provided valid reasons to justify its recommendations to support contingent rights only in this application. Please see below EMR's detailed explanations, and we believe that firm rights for the services sought in this application should be granted.

Detailed Comments

Please see below our detailed comments in response to the specific points from the representations:

Section 1 Purpose - Point 1.5

Growing revenue and reducing subsidy is one of the main focuses of the rail industry, and the December 2025 Timetable is of fundamental importance to this. The timetable requires additional resource but unlocks revenue opportunities, and EMR will be marketing these changes to grow demand. If there is no continuity in the timetable, and the service must be reduced, this will affect overall net subsidy, our long-term business planning, and result in overcrowding which will affect passenger satisfaction. EMR has always been committed to continuous performance improvement, and we will take actions if necessary to fix any performance problems that may arise. We believe that this particular request to the ORR to express 'no presumption of continuity' in its direction has not been imposed on other East Coast applications. Hence, it is unreasonable to make no presumption about the continuity of services contained in the 19th Supplemental Agreement.

Section 3 ECML General Representation Letter dated 14 March 2025 – Point 3.3 (Unused London North Eastern Railway (LNER) Firm Directed Rights)

We believe the reference to unused LNER firm directed rights in Network Rail's Representations is not relevant to this application. In Section 5.6 (Long Term Planning Process) of the Form P for this application, EMR has demonstrated the fact that we have considered our proposals alongside LNER's 3rd Leeds service, using the Concept Timetable supplied by Network Rail. We are firmly of the view that Newark Flat Crossing would not prohibit the accommodation of the LNER service uplift.

Section 4 ECML Proposed December 2025 Timetable

The ECML Industry Task Force had undertaken a lot of the timetable work in the geographic areas contained in the performance modelling, but they did not include Nottingham. As a result, EMR commissioned Rail Aspects to simulate the East Coast ESG timetable with Nottingham included, and this shows a 1.1% reduction in T-3 on EMR's Regional services. The Project Abraham timetable more than cancels out the impact, delivering a 7.2% T-3 improvement compared to the East Coast ESG timetable. Therefore, in the December 2025 Timetable, EMR is much less likely to cause reactionary delay to Long Distance High Speed (LDHS) services on the ECML.

The improvement is a result of the extensive work that EMR has done to de-risk the implementation of the East Coast ESG timetable. The 19th Supplemental Agreement is the fundamental driver for this

change. EMR is disappointed that this significant piece of work has not been recognised in Network Rail's final representations because the proposal in this 19th Supplemental Agreement for the December 2025 timetable change is designed to be more resilient to delays and improve overall network performance. Full details were included in Section 4.3 Performance of the Form P.

Section 5 Access Rights Sought in the Application

Given the timescale and requirements set out by the ORR in its letter of 24th April 2024 to the industry to submit access rights applications for three timetable changes by 20th May 2024, EMR had developed the timetable and provided all information possible at that stage. Consequently, it was not possible to assess the impact on train crew diagrams and fleet maintenance. This was carried out after the submission of the 19th Supplemental Agreement, and the changes have been captured in the 24th Supplemental Agreement. To provide some clarification about any increase to numbers in the table under Point 5.8, please see the detail below:

- SX Crewe – Lincoln increases from 11 to 13. After the unit diagrams had been completed, we found it made sense to join up two existing late evening services (Crewe – Nottingham and Nottingham – Lincoln) after 21:00 from Nottingham, to provide a through service, which is a benefit to passengers. The SX reduction from Crewe – Newark Castle is not related. To get units back onto Eastcroft Depot for fuelling, we decided not to run an extra service from Nottingham to Newark Castle at 19:27.
- SO Crewe – Newark Castle increases from 1 to 2. Because of Engineering Access requirements, we could not get all the units back from Lincoln to Eastcroft Depot on Saturday evening without running longer trains and blocking level crossings. Therefore, the 18:27 from Nottingham terminates at Newark Castle. We cannot comprehend why Network Rail would not support this, when it results in fewer trains operating over the Newark Flat Crossing.

Section 6 Assurance / Assessments / Updates -

i) Point 6.2 ECML

We believe the statement in Point 6.2.2 is not relevant to this application;

"If ORR does direct this application, then it will impact on the capacity available to other Operators' applications,.....".

It is widely acknowledged that the maximum LDHS capacity between Peterborough and Doncaster is 8tph. Between 13:00 and 13:59, there are 8 LDHS paths between London King's Cross and Doncaster, but only 7 LDHS between 15:00 and 15:59. There is no difference to the EMR service at Newark Flat Crossing in either hour. Therefore, if there was an application to run an additional LDHS service in the 15:00 – 15:59 hour from London King's Cross, Newark Flat Crossing would not be the constraint. This is an unjustifiable claim that the rights sought in this application would affect capacity available to other operators' applications. Network Rail has not provided sufficient evidence to demonstrate why this is the case because the proposal in this application is compatible with 8tph on the ECML.

The stopping patterns required south of Doncaster will always create sufficient gaps to cross the ECML at Newark Flat Crossing. For example, if the first train departs King's Cross at xx:00 and is fast to York and the second train departs at xx:03 and stops at Grantham, then there is a 7-minute gap over the Newark Flat Crossing (5.5 minutes required in Timetable Planning Rules). Even if the service was

increased above 8tph in the future, there will always be natural gaps in the timetable because of the stopping patterns.

In Point 6.2.4, it states that our services are expected to be accommodated, which is factually incorrect. There is no expectation for it because services have been accommodated. Furthermore, the previous work on the East Coast ESG timetable between April and October 2024 had not resolved many of the EMR non-compliances with the Timetable Planning Rules (TPR), including turnround times at Lincoln and missing allowances in our schedules.

ii) Point 6.4 Performance

EMR notes the comment in Point 6.4.4, that the impact is expected to be primarily to EMR services and not ECML services. This is of fundamental material importance to the ORR's decision making. The ECML is a strategically important railway to the UK; we are pleased Network Rail concur that Project Abraham will not impact on the ECML. This is also supported by the Rail Aspects Performance Modelling report, which we have shared with Network Rail, and it shows Project Abraham improves T-3 of most ECML Operators, including the biggest operator LNER.

We acknowledge that the baseline punctuality along the Newark to Lincoln route is currently low. However, when Network Rail has overlaid the modelled aspirations, it did not take account of the fact that the baseline punctuality will improve significantly because of the structural changes to the timetable and performance initiatives. The following changes have been implemented in the December 2025 Timetable:

- Provision of longer dwell times at Nottingham (4 to 11 minutes) to reduce delays being transferred from west of Nottingham to Newark Flat Crossing.
- Better spacing of services from Nottingham to Netherfield Junction.
- Review of SRT's, adding time to EMR schedules on the Castle Line.
- Removal of short turnrounds at Newark Castle, which include a shunt move.
- Adding <1> to all EMR services before Newark Flat Crossing.
- Self-contained unit workings by route.
- Longer turnround times. For example, in the current timetable the 14:37 Lincoln – Leicester is formed by an arrival from Peterborough at 14:35. In December 2025 timetable, the 14:14 and 14:42 departure from Lincoln will have turnround time of 30 and 15 minutes respectively.
- Operating EMR services on alternate hours between Habrough and Grimsby Town/Cleethorpes. In the current timetable, you get 3 passenger trains in less than 15 minutes through Habrough in the Up direction (towards Grimsby Town), which impacts on performance.
- Better spacing of services between Cleethorpes/Grimsby Town – Barnetby. In the current timetable EMR follow the TPE service on minimum headway, and in December 2025 the services are roughly 20 minutes apart.
- Adding <1> to all EMR services from Cleethorpes/Grimsby Town before Pelham Street Jn (Lincoln).

We acknowledge that Network Rail had to conduct a separate performance analysis in a short space of time to determine the impact at Newark Flat Crossing. However, the previous analysis and figures presented by the ECML Task Force did not take account of any increase to the average entry lateness

of EMR services because Nottingham had not been modelled. Furthermore, the revised figures highlighted in Point 6.4.6 i.e. 1% worse than the modelled position, do not take account of all of the initiatives described above. Thus, we believe that the Project Abraham figures quoted in Network Rail's final representations are not accurate and therefore not sufficiently reliable to inform a decision.

The Rail Aspects Performance Modelling report is a more comprehensive model of the EMR area, and shows improved punctuality across a range of metrics. EMR shared this Rail Aspects Performance Modelling report with Network Rail throughout the timetable development process, and many of the recommendations in the Report have been implemented in the December 2025 Timetable.

EMR does not accept Network Rail's explanations on concerns about high levels of perturbed working on the ECML being a factor in the decision on access rights for the 19th Supplemental Agreement. This is different to the approach used to reach a decision on other applications. For example, in the East Coast Trains Ltd 16th Supplemental Agreement, there is no mention of perturbed working despite involving peak trains running over the ECML between London and Newcastle, and on parts of the route that have been declared as congested infrastructure.

As part of the contingency planning, EMR had to look at the next available path over the Newark Flat Crossing for all EMR services, and only three services were highlighted as a concern. Of the three services, one service is only an issue once every 4 weeks when the Infrastructure Measurement Train operates. This approach has not been applied to other applications, including locations like the Welwyn Viaduct. As described earlier in the response, stopping patterns south of Doncaster create a natural gap over the Newark Flat Crossing. The same relatively easy contingency does not apply to a non-stop service between Newcastle and London King's Cross if it gets delayed behind a LNER service calling at intermediate stations. Regardless of any decision, EMR is firmly of the view that robust contingency plans should be developed to protect the performance of all railway services across the network and is working collaboratively with Network Rail on this. Where the contingency planning has identified an issue, we have focused on specific services and worked with Network Rail to make a positive impact to the timetable.

iii) Point 6.5 Capacity

EMR agrees with the comment in Point 6.5.1 in relation to the statement about capacity increase between Newark Castle and Lincoln with the extensions and the increase predominantly applies only between Newark Castle and Newark Crossing East Jn. Firm rights between Newark Castle – Crewe and Newark Northgate – Lincoln are already held.

EMR does not believe that it is reasonable to turn the whole journey between Crewe–Newark Castle & Lincoln, and Newark Northgate–Lincoln services in this application to contingent rights. If the firm rights sought were not directed in full, we would ask the ORR to consider splitting the rights up and put the firm rights that we already have i.e. between Crewe & Newark Castle and Newark Northgate & Lincoln in Table 2.1, and then contingent rights to apply to the other i.e. Newark Castle to Lincoln, to Table 2.2 with the clause allowing the rights to be joined together.

Conclusion

We have seen significant issues caused by the granting of contingent rights in advance of the delivery of firm rights and would recommend that this is not repeated unless it is paramount and justified with evidence and facts.

We would request ORR not only consider all our comments raised in this response about performance, but also the significant benefits that the proposals in this 19th Supplemental Agreement and the separate 24th Supplemental Agreement would bring to passengers across the East Midlands and grant firm rights to our proposed services in the 19th Supplemental Agreement.

Yours sincerely,

Lanita Masi
Network Access Manager
East Midlands Railway