

**Jonathan Rodgers**  
Senior Executive, Access and Licensing  
Telephone: 0207 282 3775  
E-mail: [jonathan.rodgers@orr.gov.uk](mailto:jonathan.rodgers@orr.gov.uk)

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Andriana Shiakallis  
Customer Manager  
Network Rail Infrastructure Limited  
Cotton Centre  
Tooley Street  
London Bridge  
SE1 2QG

Tom Causebrook  
Access Contract Manager  
Govia Thameslink Railway Limited  
1st and 2nd Floor  
24 Monument Place  
London  
EC3R 8AJ

Dear Andriana and Tom

**Twenty eighth supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Govia Thameslink Railway Limited (GTR)**

1. On 24 April 2019 we approved the above supplemental agreement submitted to us formally on 23 April 2019 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.

**Background**

2. The agreement gives GTR the necessary access rights to increase weekday services between Cambridge and Brighton from one to two trains per hour. This is the next phased step in the Thameslink Programme, meaning there will 20 trains per hour through the Thameslink Core Stations in the high peak.

3. In addition, the majority of existing weekday services between Stevenage and Moorgate will be cut back to originate or terminate at Watton-at-Stone.

4. The changes take place on the timetable change date on 19 May 2019 and expire on the timetable change date in May 2022, apart from some East Coast Mainline (ECML) related rights that will expire on the timetable change date in May 2020 9 (in line with Network Rail's ECML policy) . All the additional access rights in service groups ET01, ET02 and ET04 will be firm rights and the additional rights in service group ET05 will be contingent rights.

5. The application set out the wider benefits of the Thameslink Programme, including a number of major infrastructure enhancements, which enabled a phased introduction of additional services from the May 2018 timetable. These include the remodelling of London Bridge Station and approaches, the remodelling of Blackfriars Station and Junction, the provision of automatic train operation in the Thameslink Core, the opening of the Canal Tunnels and platform extensions across the Thameslink Route to allow the operation of 12-car trains.

### **Consultation**

6. Network Rail undertook the usual industry consultation between 17 January and 15 February 2019. Transport Focus queried the change to the Stevenage services and GTR explained why this was happening. Arriva Rail London also had some minor queries about timetabling and these were answered by Network Rail. Greater Anglia (GA) and GB Railfreight (GBRf) submitted objections to the application.

#### *GA's objections*

7. GA expressed concerns regarding the Cambridge services and their impact on their own future franchise obligations. They were particularly concerned with congestion in the Cambridge/Shepreth branch junction area and considered GTR adding an extra service in the area could have a negative performance impact. GA requested access to the performance modelling used by the parties. They also had concerns about capacity at Cambridge station.

8. Following further detailed correspondence with GA, GTR agreed to set up work streams at a senior level to address some of the issues that GA were concerned about. GTR and GA also agreed to meet to discuss Cambridge platform capacity. On 5 April, GA withdrew its objections.

#### *GBRf objections*

9. GBRf objected to the application on capacity and performance grounds. It expressed concern about capacity on the Up line between Cambridge and Hitchin saying that, as a result of the proposed changes, there would be no scope to path ad-hoc traffic on the route. In terms of performance, GBRf initially sought information regarding the performance impact of the previous Thameslink changes on Great Northern services and asked what the performance expectations were for the change from 1tph to 2tph between Cambridge and Brighton.

10. GTR corresponded with GBRf and provided performance data in order to resolve its concerns. GTR said it expected performance to be sustained in future and said it understood GBRf's existing services had been accommodated in the May 2019 timetable. GTR also offered to work with GBRf in the future to explore options for accommodating additional freight traffic.

11. As correspondence continued, there was some disagreement regarding the performance data that GTR provided and what that data represented. On 12 April, GTR sent a final email to GBRf in response to the continuing concerns raised and offered a further discussion if necessary. On 24 April, GBRf confirmed to ORR that the correspondence with GTR had not resolved its concerns. It was still concerned about future performance on the line given higher levels of track occupancy and said that it would not be possible to accommodate any changed or additional traffic between Cambridge and Hitchin.

*Further Network Rail letter in support of the application*

12. Shortly after receiving the informal submission, we asked Network Rail to provide us with a further letter, summarising why it supported the application and setting out the consequences for GTR if the application was not approved.

13. Network Rail's subsequent letter of 28 March 2019 gave a high level summary of the proposed changes in the application and noted that the proposed access rights were only being sought until May 2020 and, in line with Network Rail's approach to ECML access rights at that time, the Cambridge to St Pancras/Blackfriars part of the services were contingent rights. The letter also summarised the concerns that had been raised by GBRf and GA and the responses to them.

14. The letter then explained why Network Rail supported the application. It said that it has supported it in line with ORR's guidance regarding access rights: there was capacity for the proposed rights; the relevant infrastructure was not declared as congested; the rights were in the relevant Strategic Business Plan; and were a franchise commitment.

15. The letter also set out what Network Rail and GTR had done to mitigate any possible performance issues. It said that, in addition to considering capacity, it should be comfortable that proposed services have the ability to perform reliably. It said that Network Rail and GTR had worked extensively and collaboratively via a number of industry boards and panels to make sure that risk areas and mitigations were identified and discussed so that they were in place for the May 2019 timetable. It noted that the same process had been in place for the December 2018 timetable which had seen a significant improvement in GTR's performance on a number of their routes.

16. The letter went on to set out Network Rail's approach to performance modelling. Specific modelling on the December 2018 and May 2019 GTR timetable changes had not been produced but it was thought that using actual performance and lessons learnt to put mitigations in place to manage any possible performance detriment was a much more robust method of managing any potential performance risk.

17. The letter also set out the consequences if the application was not approved. GTR would likely wish to run their services through to Stevenage, train crew diagrams would need to be rewritten (which would need to be consulted with and supported by ASLEF) and the revised timetable would have to be re-bid to Network Rail, revalidated and offered back. All of this would need to take place if a robust timetable was to be published for passenger use and it would divert resources from the recovery of the Informed Traveller timescales in line with the agreed industry plan.

### **Our review**

18. We have carefully considered all of the information provided by the parties and consultees regarding this application. We have noted the efforts made by Network Rail and GTR to try and resolve any queries or concerns raised during and after the industry consultation and are pleased that this resulted in GA withdrawing its objections. We are satisfied with the approach taken by the parties to engage with consultees and resolve concerns raised. We expect them to continue to work together constructively to monitor the performance of these new services and ensure any risks are mitigated effectively.

19. We note that GBRf continues to have concerns about this application regarding the potential performance impact and future capacity. However, these additional services are an integral part of the Thameslink Programme following very significant investment, including substantial infrastructure enhancements. It is clear that these additional services will benefit passengers and are part of long-term plans for the benefit of passengers on the route.

20. All relevant operators have been involved in discussions regarding the Thameslink Programme and were involved in the decision to proceed with increasing the number of trains in the core. Performance has been monitored and while, of course, there were serious issues with the May 2018 timetable change, performance has been improving since December 2018. We expect all stakeholders to continue to engage with Network Rail regarding the further phased steps of the Thameslink Programme and how these will impact on them in order to ensure early resolution of issues.

21. For the reasons explained above, we have concluded that we should approve this application. In considering the agreement and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with our section 4 duties, in particular those relating to:

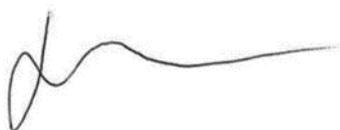
- protecting the interests of users of railway services
- promoting the use of the railway network for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- promoting competition in the provision of railway services for the benefit of users of railway services;

- having regard to the interests, in securing value for money, of the users or potential users of railway services, of persons providing railway services or of the persons who make available the resources and funds and of the general public;
- and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance.

22. 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. ORR's copy should be sent for my attention.

23. Electronic copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at Department for Transport and Peter Craig at Network Rail. Copies of the approval notice and the agreement will be placed on ORR's public register and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Jonathan Rodgers', written in a cursive style.

**Jonathan Rodgers**