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20 October 2020

Mark Garner  
Customer Manager  
Network Rail Infrastructure Limited  
George Stephenson House  
York  
YO1 6HP

Phil Dawson  
Business Planning Manager  
London North Eastern Railways Limited  
East Coast House  
25 Skeldergate  
York  
YO1 6DH

Dear Mark and Phil,

## **Approval of the nineteenth supplemental agreement to the track access contract between Network Rail Infrastructure Limited and London North Eastern Railway Limited**

1. The Office of Rail and Road (ORR) has today approved the nineteenth supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and London North Eastern Railway Limited (LNER), submitted to us formally on 19 October 2020 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 our decision.

### **Purpose of the agreement**

2. This agreement provides LNER with contingent rights each way between Leeds and Bradford Forster Square on Saturdays and Sundays that will be used to extend an existing London Kings Cross – Leeds return service to provide a new direct London – Bradford Forster Square return service. The agreement provides the rights until the Subsidiary Change Date in May 2021.

### **Consultation**

3. Network Rail consulted the industry on this proposal in March and April 2020. The supplemental consulted on was for rights continuing until the Principal Change Date in December 2025 and included a London – Huddersfield Saturday return service. The London-Huddersfield service and rights between May 2021 and December 2025 were not included in the application submitted to us.





4. GBRf and TPE both raised queries and concerns which were responded to by LNER. Outstanding concerns in both cases related to the Huddersfield element of the proposal which has not been pursued in this application.

5. Northern responded asking for further details on the train recovery plan, a number of potential timetable clashes, platforming capacity at Bradford and Leeds and interactions with the Transpennine Route Upgrade Programme. LNER provided additional detail on these queries.

6. Cross Country, West Yorkshire Combined Authority and Transport Focus supported the application.

### **ORR's review and conclusions**

7. We reviewed the application and asked a number of additional questions of LNER and Network Rail, particularly around potential performance impacts, platforming capacity and power supply. We were content with the responses supplied by LNER and Network Rail.

8. We were not asked by any consultee to carry out the Not Primarily Abstractive test on this application, but we did consider whether the services were being operated on a commercial basis and the potential financial impact of the new services on existing open access operators, namely Grand Central. We are satisfied that the services proposed will be on operated on a commercial basis and will not significantly impact on the profitability of open access operators.

9. 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 agreement is consistent with our section 4 duties, in particular those relating to:

- protecting the interests of users of rail services;
- promoting the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- contributing to the development of an integrated system of transport of passengers and goods;
- promoting competition in the provision of railway services for the benefit of users of railway services; and
- enabling persons providing railway service to plan the future of their businesses with a reasonable degree of assurance.



### **Conformed copy of the track access contract**

10. 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 LNER. ORR's copy should be sent for my attention.

### **Public register and administration**

11. In accordance with section 72 of the Act, we will place a copy of the approval notice and the agreement on our public register. The parties have not asked us to redact anything (as provided for by section 71(2) of the Act) prior to placing it on the register.

12. Copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at the Department for Transport. Copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Peter Craig at Network Rail and Nicola Eyre at Northern Trains.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'David Reed', written in a cursive style.

**David Reed**