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11 March 2022

Robert Neep
Customer Manager, LNW Route
Network Rail Infrastructure Ltd
Baskerville House
Centenary Square
Broad Street
Birmingham
B1 2ND

Chris Hassall
Head of Commercial Contracts
First Transpennine Express Ltd
8th Floor, Bridgewater House
60 Whitworth Street
Manchester
M1 6LT

Dear Robert and Chris

Approval of the 41st supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First Transpennine Express Limited dated 8 March 2016

We have today approved the above supplemental agreement submitted to us formally on 11 March 2022 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 the reasons for our decision.

Purpose

The purpose of this agreement is to extend First Transpennine Express' (FTPE) contingent rightst on the East Coast Mainline (ECML) and Castlefield Corridor in accordance with Network Rail's access policy. These amendments will take effect on the Subsidiary Change Date 2022 and will expire on the Principal Change Date 2022 (Castlefield Corridor), the Subsidiary Change Date 2023 (ECML), or earlier termination of FTPE's track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. Comments in support were received from First Greater Western, Cross Country Trains, Serco Caledonian Sleeper, and West Yorkshire Combined Authority.

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GB Railfreight expressed concern that there were discrepancies between the quantum of rights in the application and the number of services in the timetable, due to unused rights caused by the response to the pandemic, and the possibility that there would be service reductions in the future. FTPE advised that it has carried out a review of its current rights and has concluded that the current underuse of rights is still driven by non-economic factors, and that it requires the flexibility provided by the retention of these rights until such time as Network Rail policy states otherwise.

GBRf also questioned whether additional calls would impact upon its ability to run its Anglo-Scottish Intermodal services between Newcastle and Edinburgh. FTPE advised that it was aware of no issues in this respect and that its planning team was confident that there is sufficient capacity for the new station calls. GBRf was content with both responses and has confirmed it has no further objections.

ORR review

Our review of the application raised no operational, economic or performance queries, nor any issues with the drafting of the agreement.

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

A handwritten signature in black ink, appearing to read 'Louise Beilby', is positioned below the text 'Yours sincerely'. The signature is written in a cursive style with a long horizontal stroke at the end.

Louise Beilby