

Louise Beilby
Senior Access Executive
Telephone: 0207 282 2076
E-mail: louise.beilby@orr.gov.uk



8 December 2022

Eleanor Lloyd
Franchise and Access Manager
Network Rail Infrastructure Ltd
1 Puddle Dock
Queen Victoria Street
London
SE1 0NS

Susan Ellis
Track Access and HS1 Contracts Manager
SE Trains Ltd
4 More
London Riverside
London
SE1 2AU

Dear Eleanor and Susan

Approval of the 89th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and SE Trains Limited dated 6 December 2007

We have today approved the above supplemental agreement submitted to us formally on 8 December 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 amend SE Trains' baseline working timetable for the Principle Change Date (PCD) 2022. It is intended to simplify the service patterns for the train operators' terminals, to introduce a Standard Hour Timetable, and to include services for Thanet Parkway in 2023. The amendments will come into effect on PCD 2022 and will expire on the Expiry Date or earlier termination of SE Trains' track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. No issues or concerns were raised.



ORR review

During our review, we requested details of the performance analysis that was undertaken in relation to this application, which Network Rail provided. We noted that a lot of work had been undertaken to recast the Southeastern timetable, and that this had concluded that there would be a positive performance improvement. However, the conclusions of the additional analysis did not wholly support this positive assessment and, in addition, requests by the funder for new service inclusions at a very late stage in timetable development do not facilitate a robust timetable structure.

Network Rail's response to this showed a lack of certainty on how much the additional services may impact on performance and to what extent the situation will be improved (or even worsened) by the changes. While we were not entirely reassured by this response, we were working under very limiting time constraints and were not able to carry out further queries and investigations as we would usually have done.

In addition, this application was submitted alongside another one which sought to establish the baseline timetable upon which the changes in the 89th supplemental agreement would be made, necessitating additional work to account for this. We recognise that there have been resourcing issues at Network Rail and that instructions from SE Trains' funders have driven some late changes. However, such late planning has obliged ORR to make decisions based on scant information, without enough time to fully pursue our queries. We ask that the applicants recognise that this degree of lateness is not acceptable and that this situation should not be repeated in future.

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'. The signature is written in a cursive style with a long horizontal stroke at the end.

Louise Beilby