

James Hickman
Access & International Executive



11 October 2023

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Waterloo General Office
London
SE1 8SW

Adam Grainger
Head of Production
Devon and Cornwall Railways Ltd
Cappagh House
Waterside Way
Wimbledon
London
SW17 0HB

Dear Bruce and Adam

Approval of the First Supplemental Agreement to the track access contract between Network Rail Infrastructure Limited and Devon and Cornwall Railways Limited dated 6 August 2021

1. We have today approved the above supplemental agreement submitted to us formally on 6 October 2023 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

2. The purpose of this agreement is to grant Devon and Cornwall Railways Limited (DCRail) the rights necessary to operate new and on-going services for aggregates: (i) between Middleton Towers and Ravenhead and (ii) to a strategic freight site at Chessington. The changes to the Schedule 5 Rights Table include 5 new firm access rights, which are DCRail's first firm access rights.

Consultation

3. Network Rail undertook the usual industry consultation from 21 June 2023 to 21 July 2023. There are no outstanding or unresolved issues. Some consultees highlighted omissions in the draft Schedule 5 Rights Table and Form F, which were corrected and clarified by Network Rail.
4. In response to a query from GB Railfreight, Network Rail confirmed that the application did not clash with any other known applications for rights. Following a query from CrossCountry, Network Rail confirmed that one of the rights is in the East Coast Main Line (ECML) Event Steering Group (ESG) project database, but the right can be supported by Network Rail as it is running parallel to the ECML at Peterborough and therefore can be exempt from the ECML Policy.

ORR Review

5. We received an informal submission from the parties on 30 August 2023.

6. We sought further information from Network Rail regarding its analysis of operational, performance, and capacity issues. We also asked Network Rail why two of the rights – which were between the same locations – recorded different contract miles, and we identified some drafting errors in the draft agreement and Form F.
7. Network Rail's responses confirmed that it had undertaken satisfactory analysis of operational, performance, and capacity issues. Network Rail also explained the difference in contract miles, and the Parties provided amended documents which corrected the drafting errors.
8. Our review of the application raised no other operational, performance or economic concerns.

ORR Decision

9. This application is under section 22 of the Act and therefore is agreed between the parties and there are no outstanding issues. We are content to approve this agreement.
10. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
 - (i) to protect the interests of users of railway assets;
 - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
 - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
 - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

Conformed copy

11. 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 Freight Operating Company. Please send the conformed copy to me at ORR.
12. Copies of the approval notice and the agreement will be placed on ORR's public register ([Public Register](#)) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

James Hickman

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