

Louise Beilby
Senior Access Executive



7 December 2023

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Dear Sam and Chris

Approval of the 55th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Transpennine Trains Limited (trading as Transpennine Express (TPE)) dated 3 March 2016

We have today approved the above supplemental agreement submitted to us formally on 7 December 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

The purpose of this agreement is to grant TPE the rights necessary to operate its proposed December 2023 timetable. The amendments entail:

- extending the Track Access Contract expiry date from SCD 2024 to SCD 2028;
- relinquishing a number of contingent and firm rights in Service Group EA01 (between Manchester Airport and Newcastle/York) in Tables 2.1 and 2.2 of Schedule 5 from PCD 2023;



- temporarily relinquishing some rights in Service Group EA01 (between Huddersfield and Leeds) in Table 2.1 of Schedule 5 from PCD 2023 for a period of 12 months until PCD 2024; and
- amending Table 4.1 of Schedule 5 to correct the calling patterns between Hull and Liverpool by adding Manchester Piccadilly as a station call, starting from PCD 2023.

These amendments will expire on the Expiry Date or earlier termination of TPE's track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. Comments in support were received from Great Western Railway, Liverpool City Region, CrossCountry, Transport Focus, West Midlands Trains and Northern.

The West Yorkshire Combined Authority indicated that it did not necessarily support all aspects of the proposed amendments, but that this was a matter for engagement outside of the track access process and that it was not objecting to this application.

LNER had a query about the expiry dates of some services and the drafting of appendix 2 of the application. The East Coast Main Line Event Steering Group requested details of TPE's intention to run trains between Leeds and Manchester. Network Rail answered the queries to both consultees' satisfaction prior to informal submission.

DfT identified some anomalies in Table 4.1 which is requested should be amended prior to submission, which NR has done.

ORR review

Our review of the application raised no operational, performance or economic concerns. We identified some minor drafting issues and these were resolved when the agreement was formally submitted.

This application was submitted to ORR only three working days before the date on which the amendments were due to start. Because of the urgency with which we have had to review the supplemental agreement, we have not had the time to review it as thoroughly as we would have liked.



As it is the responsibility of the parties to the contract to ensure that the drafting of any supplemental agreement is valid and effective, ORR does not accept liability for any errors that are in this amendment, and which are subsequently introduced into the contract.

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 blue ink, appearing to read 'Louise Beilby'.

Louise Beilby