

**Jonathan Rodgers**  
Senior Executive, Access & Licensing



20 November 2024

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Dear Mark and Malcolm

**Approval of the 42nd supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and London North Eastern Railway Limited (LNER) dated 3 March 2017**

We have today approved the above supplemental agreement submitted to us formally on 31 October 2024 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration.

ORR's approval of this application ensures that LNER can provide continuity of services on the East Coast Mainline (ECML) from the Principal Change Date (PCD) in December 2024. This letter explains the reasons for our decision. It also explains ORR's position on the concurrent applications that LNER have submitted in accordance with section 22A of the Act.

**Concurrent section 22A application**

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. LNER submitted five such applications on 20 May 2024.



In reaching a decision on this supported 42nd supplemental agreement, it is important to clarify that:

- ORR has reached its decision in the full knowledge of LNER's concurrent section 22A applications;
- LNER's section 22A applications remains "live" and we continue to try to progress them. However, ORR cannot reach a decision on those applications as Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible; and
- most importantly, the approval of the 42nd supplemental agreement ensures that LNER has approved access rights in the December 2024 timetable.

### **Purpose of 42nd supplemental agreement**

The purpose of the 42nd supplemental agreement is to grant LNER the access rights necessary to operate its proposed December 2024 timetable. This agreement extends all of LNER's existing ECML contingent time-limited rights from PCD 2024 until PCD 2025, in line with Network Rail's ECML access policy.

### **Industry consultation**

Network Rail undertook the usual industry consultation. A query was received from West Yorkshire Combined Authority but this had not been responded to by the time of the formal submission. We brought this to Network Rail's attention and they responded.

### **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.

### **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

**Jonathan Rodgers**