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28 March 2025

Dear Alice,

**Network Rail Representations for the 36th Supplemental Agreement submitted under Section 22A of the Railways Act 1993 for the Track Access Contract (TAC) between Network Rail Infrastructure Limited and London North Eastern Railway (LNER) Limited dated 03 March 2017**

**1 Purpose**

- 1.1 This letter provides final representations from Network Rail for the 36th Supplemental Agreement (SA) submitted under Section (S) 22A of the Railways Act 1993 for the Track Access Application between Network Rail and LNER submitted to ORR on 20 May 2024.
- 1.2 This application relates to four other LNER applications all submitted to ORR on 20 May 2025. The 34<sup>th</sup> SA and 35<sup>th</sup> SA relate to amendments to Schedule 5 (Part C), whereas this application, the 37<sup>th</sup> SA and 38<sup>th</sup> SA relate to amendments to the existing Schedule 5 (Part B). If the 34<sup>th</sup> SA is approved by ORR, then Schedule 5 (Part C) will begin in December 2025 and Schedule 5 (Part B) will fall away.
- 1.3 This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024, and the 14 March 2025 General Representation on Complex and/or Competing Applications interacting on Location ECML Kings Cross - Edinburgh and Leeds.
- 1.4 The latter of these letters provided important information to support ORR when it comes to making decisions on applications in this geography including context on the work in developing the ECML Policy, ECML Industry Task Force, key performance information, as well as updates on power supply assessment. The annexes to that letter include relevant information including Timetable Performance Analysis and ECML Power Supply Modelling and where there is specific relevance to

this application, reference will be made in this representation.

- 1.5 The purpose of this final representation is to provide ORR with Network Rail's final position on this application (and the specific access rights within it) and will do so by providing facts, data, evidence to support our position. As the access rights sought in this application are at the ECML interacting location the evidence and data to evidence our position are all contained in the ECML General Representation letter dated 14 March 2025.
- 1.6 Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation, it expects this application to fall away with the introduction of the Proposed ECML December 2025 Timetable and approval of LNER's 34<sup>th</sup> SA, subject to any comments, suggested amendments or specific issues highlighted in this representation.
- 1.7 Where there are a number of applications seeking capacity at the locations referred to in this letter, and as detailed in Annex A, the basis of our support of applications either in total, or in part (as can be determined by reading the relevant representations), may have a connection to our position on all other applications at that location. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

## **2 Background of the Application and Network Rail Representations**

- 2.1 In line with ORR's letter of 24 April 2024 to the industry on 'Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes', LNER submitted this application to the ORR on 20 May 2024 as a S22A application.
- 2.2 As requested by ORR, Network Rail submitted a High-Level Plan in June 2024, and a further detailed plan was published on Network Rail's website in August 2024 (and updated in January 2025). Network Rail made its initial representations on this application on 28 June 2024 where an initial view of the application Form P and SA was provided. On 22 July 2024 LNER responded to the Network Rail initial representations. Further to this Network Rail issued a General Representation on the East Coast Mainline (ECML) to ORR dated 14 March 2025.
- 2.3 In its initial representation on 28 June 2024, Network Rail highlighted a number of items in the "Network Rail Review of Form P and associated documents" section of the letter. Where we have not had a response to the points highlighted we have noted this below for the Operator and/or ORR to address or take into consideration.
- 2.4 The points we would like to highlight from the original representation and the course of action we require, are as follows:

Within the SA:

- Network Rail noted that "further infrastructure work is required at Bradford to enable a new platform and the extensions are dependent on its delivery. Further work also required at Shipley in order for the operator to use platform 4. Until this work is completed it will limit the operator's ability to call at Shipley and so currently Network Rail cannot support a regular calling pattern call (a firm right call) at Shipley". LNER responded on 24 July 2024 stating: "LNER is fully aware that the delivery of these services is dependent on the completion of infrastructure work. We have been assured by Network Rail that this work will be completed by Subsidiary Change Date 2025 in time for the delivery of these services. If the work is not completed, we will be unable to deliver the additional services for Bradford". Network Rail can now confirm, as per the 44<sup>th</sup> SA currently going through industry process under a Section 22 application, that the call at Shipley remains contingent in Schedule 5 (Part C) via this 34<sup>th</sup> SA.

- Network Rail questioned whether “the proposed rights need to be shown separately to a London passenger train slot, i.e. the current proposal shows Leeds – Bradford not London – Bradford. Network Rail notes there may not be platform capacity for the two to operate independently”. Network Rail, can now confirm that clause 2.3 in Schedule 5 is intended to be updated via the 44th SA, to reflect the intended operation:

2.3 In order to provide through Services the Train Operator has:

- a) Firm Rights to couple and uncouple trains at Leeds, Doncaster, York, Newcastle and Edinburgh Waverley.
- b) Firm Rights to combine Passenger Train Slots at Leeds.
- c) Contingent Rights to combine Passenger Train Slots at Leeds.

- LNER, in its response to Network Rail’s original representation dated 24 July 2024, that “the detailed proposals for Sunday remain under development (due to the focus on delivering ESG) and will be submitted in line with the priority date for the Subsidiary Change Date in 2025”. Network Rail can now confirm, as per the 44<sup>th</sup> SA currently going through industry process under a Section 22 application, that only one service will run on a Sunday in the May 2025 timetable, as opposed to the 3 services stated in this 36<sup>th</sup> SA.

### **3 East Coast Mainline (ECML) General Representation Letter dated 14 March 2025**

3.1 Network Rail can confirm that this application is seeking the proposed access rights at the interacting location ECML: Kings Cross – Edinburgh and Leeds and therefore the ECML General Representation is relevant to this application.

3.2 Whilst the entire letter is relevant to this application, we would like to highlight key points of that letter which are more pertinent to this application namely “Unused LNER Firm Directed Rights”, “Congested Infrastructure” and “ECML Timetable Performance Analysis”.

#### **3.3 *Unused London North Eastern Railway (LNER) Firm Directed Rights***

3.3.1 The ECML ESG Timetable does not include the Unused LNER Firm Directed Rights as stated in paragraph 5 in Network Rail’s ECML General Representation letter. These are 8 LNER firm rights Monday to Saturday, 7 firm rights Sunday Only, between London King’s Cross and Leeds via Wakefield or Micklefield directed by ORR in 2016.

3.3.2 The specification for the LNER service to/from London King’s Cross had been reduced from 6.5 trains per hour (tph) to 6 tph with agreement from the DfT in 2021. This reduction retained the 0.5 tph London King’s Cross – Middlesbrough service, albeit as far as York, with the 0.5 tph London King’s Cross – Leeds service being descoped. ECML Programme Board on 21st March 2021 noted the recommendation from East Coast Route to defer the 0.5 tph London King’s Cross – Leeds service, including the conditional outcome of journey time reduction between London Kings Cross and Leeds, to a post-ECML ESG [December 2025] future timetable change.

3.3.3 As of 14 March 2025 Network Rail have formally declared congested infrastructure on relevant routes between Huntingdon North Junction (Jn) and New England North Jn (Peterborough) and Doncaster Marshgate Jn and Leeds Copley Hill West Jn.

3.3.4 Work undertaken for the ESG has shown definitively that this 0.5 tph London King’s Cross – Leeds service uplift cannot be accommodated alongside the other ESG outputs. As such the service cannot run in this timetable or future timetables, alongside the other industry endorsed aspirations without additional infrastructure and associated development activity, which is currently unfunded and

uncommitted.

### **3.4 Congested Infrastructure**

3.4.1 As stated in paragraph 6 of the ECML General Representation letter Network Rail has declared Congested Infrastructure for the December 2025 New Working Timetable for three lines of route on the ECML.

3.4.2 Two lines of route that this application is proposing access rights for, are:

- Between Huntingdon North Jn and New England North Jn (Peterborough); and
- Between Doncaster Marshgate Jn and Leeds Copley Hill West Jn.

## **4 ECML Proposed December 2025 Timetable**

4.1 As referred to in the ECML General representation letter, in February 2024 the ESG closed following an ECML Programme Board endorsement on 17 January 2024 to deploy the new ECML Timetable in December 2024, subject to the outputs of the completed performance modelling.

4.2 At the point in time of ORR's letter to the Industry on 24 April 2024, the Department for Transport (DfT) had accepted a recommendation from the Industry Timetable Assurance Project Management Office (PMO) to funders that the ECML ESG Timetable should be deferred from the December 2024 timetable change.

4.3 An ECML Industry Task Force (herein referred to as "the Task Force") commenced in June 2024 as an independently led executive-level cross-industry meeting that provides strategic direction for the work programme. The Task Force develops solutions to the problems of the new ECML Timetable, drives consensus on the outcome(s), and delivers recommendations for industry funders and specifiers.

4.4 On 17 October 2024 the Independent Chair of the Task Force wrote to the DfT to advise that the Task Force met on 10 October 2024, reviewed the considerations, issues, and risks, and recommended proceeding with implementation of the new timetable for ECML in December 2025. This was on the basis that the timetable is deliverable and meets the Task Force objectives that were set. Concerns were noted from GB Railfreight (representing themselves and other Freight Operating Companies), ScotRail and Transport Scotland. The Task Force recommendation was accepted by the DfT and subsequently endorsed by the Secretary of State in December 2024.

4.5 The Task Force had worked collaboratively up to 31 January 2025 to further de-risk the transition of the ECML ESG timetable from development to timetable production.

4.6 Advanced work completed by Network Rail Capacity Planning, to inform the December 2025 timetable risk, involved aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable (WTT) and associated Rolling Spot Bids (RSB). This process has highlighted that, despite previous timetable development work, the national freight and passenger timetable has evolved and this work has been necessary to reduce the risk that capacity decisions may need to be made during the timetable production period between D-40 to D-26.

4.7 Therefore, where in this letter and in the ECML General Representation letter we have referred to the proposed ECML December 2025 Timetable, we are referring to the timetable work above namely, either full or in part, the:

- timetable which was developed by the ECML ESG and later deferred in April 2024;
- Timetable where solutions were developed to the problems of the ECML Timetable as part of the Task Force;

- Advanced Timetable Work (undertaken between April and October 2024) to de-risk the transition of the ECML ESG timetable from development to timetable production; and
- Advanced work to inform timetable risk including aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable and associated Rolling Spot Bids.

4.8 So where Network Rail highlight in this representation and the ECML General Representation letter (in the relevant annexes to that letter) whether the access rights sought on ECML in each application are as Network Rail expects in the proposed ECML December 2025 Timetable, we are referring to whether the access rights align to the above Timetable work which makes up the proposed ECML December 2025 Timetable.

**4.9 Access Rights Contained in the Application as Part of the Interim Approach**

4.9.1 As stated in our NR Representation letter of 28 June 2024 and as extracted from that representation in the section above “Background of the Application and NR Representations”, some of the rights in this application (extensions between Leeds and Bradford Forster Square on weekends) are going through industry process under a Section 22 application using the Interim Approach and supported for one timetable periods, contingent, with no presumption of continuity. This approach was applied for the May 2025 Timetable via the 44<sup>th</sup> SA.

4.9.2 In addition to this, we would like to highlight to ORR that the rights applied for under the Interim Approach in the 44<sup>th</sup> SA will fall away from the December 2025 timetable change with the approval of LNER’s 34<sup>th</sup> SA as the necessary rights are included in the 34<sup>th</sup> SA. ORR are to note that any footnote relating to the Interim Approach will need to be deleted.

**5 Access Rights Sought in the Application**

5.1 The rights sought in this application:

The rights included in the 36 <sup>th</sup> SA	Specific locations identified in ORR’s Letter of 24 April 2024	Interaction
6 Saturday extensions between Leeds and Bradford Forster Square in each direction with a regular call at Shipley.	(f) ECML Kings Cross-Edinburgh and Leeds	ECML
3 Sunday extensions between Leeds and Bradford Forster Square in each direction with a regular call at Shipley.	(f) ECML Kings Cross-Edinburgh and Leeds	ECML

5.2 Network Rail can now confirm, as per the 44<sup>th</sup> SA currently going through industry process under a Section 22 application, that only one right will be used on a Sunday in the May 2025 timetable, as opposed to the 3 right listed in the table above.

5.3 Annex B of this letter contains a table which shows all of the access rights requested in this application when set against the February 2025 version of the proposed December 2025 ECML Timetable.

5.4 The Table in Annex B provides details of the access rights characteristics i.e:

- Origin
- Destination
- Quantum by Day of Week (Peak or Off Peak)
- If the access rights are currently held in the contract and proposed change is an amendment to those rights for e.g. calling pattern change, contingent to firm etc.

- Which locations it interacts with from ORR's list of nine locations in their letter to the industry 24 April 2024.
- 5.5 The table also identifies if the access rights origin and destination, quantum and calling patterns sought in the application, are as expected for the Proposed ECML Timetable for December 2025, resulting in the rights proposed in this application falling away from December 2025.
- 5.6 In line with Network Rail's ECML letter to ORR on 14 March 2025, Network Rail can confirm that the rights sought in this application are expected to fall away with the introduction of the ECML Proposed December 2025 Timetable and approval of LNER's 34<sup>th</sup> SA.
- 5.7 The proposed rights as stated in the application are requested to commence from the May 2025 timetable but, as alluded to by LNER in an email on 20 February 2025 to ORR, the 42<sup>nd</sup> Supplemental Agreement moved the end date of their Schedule 5 Part B to December 2025 timetable change and moved the start date of their Schedule 5 Part C to begin from the December 2025 timetable change and this 36<sup>th</sup> Supplemental Agreement relates to changes to both their Schedule 5 Part B and Schedule 5 Part C to reflect the running of services in the May 2025 Timetable as well as their continuation in the expected introduction of the ECML Proposed December 2025 Timetable. Network Rail would like to acknowledge that an updated Form P was notified to Network Rail and ORR on 07 January 2025 and the only change to the application was the "quantum of additional trains on Sunday has been reduced from three in each direction to just one following completion of the detailed timetable development work". As per the Form P, ORR are to note this application relates to Schedule 5 Part B of the TAC and would be superseded by Schedule 5 Part C on introduction of the ECML ESG timetable.

## **6 Assurance / Assessments / Updates**

6.1 The following section will address specific areas of consideration, opportunity and risk relevant to the application or where applicable to specific access rights in the application. Where the outputs relate to specific access rights instead of the application as a whole this will be highlighted in the relevant section.

### **6.2 Capacity**

6.2.1 Network Rail can confirm that the access rights sought, including the reduction on a Sunday as per the updated Form P, will be running in the May 2025 Timetable.

### **6.3 Performance**

6.3.1 Network Rail can confirm that this application was included in the ECML Timetable Performance Analysis that is listed within Network Rail's General Representation to ORR on the ECML dated 14 March 2025. Please refer to Annex L of that letter for further information.

### **6.4 ECML Power Supply Modelling**

6.4.1 Network Rail can confirm that this application directly relates to paragraph 11 of Network Rail's ECML General Representation to ORR and is included in the power modelling report which is an Annex (Annex M) to the ECML General Representation.

6.4.2 Network Rail wish to collaborate with LNER on any necessary power mitigations and, where applicable, set these out in the TAC until such point future power upgrades alleviate the risk. For the

avoidance of doubt this includes any ad-hoc request to run in 10-car formation.

**6.5 Any other risks or cross-route concerns**

6.5.1 Network Rail can confirm there are no other risks or cross-route concerns.

**7 Conclusion**

- 7.1 In this representation letter we have confirmed that we expect the access rights sought in this application to fall away with the introduction of the ECML Proposed December 2025 Timetable and approval of LNER's 34<sup>th</sup> SA. In addition, we have also provided an explanation to ORR of what the proposed ECML December 2025 Timetable is an amalgamation of in terms of Advanced Timetable Work and confirmed that our position is based on these assessments.
- 7.2 Network Rail has also highlighted in this letter a number of points we raised in our original representation letter. These are points of clarification and amendments required to the proposed Supplemental Agreement submitted with this application, that Network Rail believes have still not been fully addressed or that ORR need to take into consideration when making a direction on the application.
- 7.3 The proposed ECML Timetable for December 2025 is the output of all the hard collaboration that the industry has undertaken since the ECML ESG was formed in 2019. Our position on this application is an output of that work.

Yours sincerely,



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