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7 December 2022

Paul Harris  
Franchise & Access Manager  
Network Rail Infrastructure Limited  
Baskerville House  
Centenary Square  
Broad Street  
Birmingham  
B1 2ND

Navdeep Brahmhatt-Gold  
Network Access Manager  
West Midlands Trains Limited  
134 Edmund Street  
Birmingham  
B3 2ES

Dear Paul and Navdeep,

**Fifteenth supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited (WMT)**

We have today approved the above supplemental agreement submitted to us formally on 24 November 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 provide WMT with an access right for one additional peak service to operate from London Euston to Northampton from Principal Change Date (PCD) 2022 to PCD 2023. WMT consider that this additional service would benefit passengers, relieve overcrowding and improve journey times and performance.

**Industry consultation**

Network Rail undertook the usual industry consultation between 22 July and 23 August 2022. Initially it did not support the application as it was concerned about it conflicting with existing applications for the same capacity on the West Coast Mainline (WCML) from



Grand Union Trains and Avanti West Coast. However, it subsequently changed its decision and now supports the application.

London City Region responded, noting its support of the Avanti West Coast application, and said that if the delivery of the Liverpool services in that application were impacted it could not support the WMT application. WMT responded and said that it did not consider this application impacted on the Avanti West Coast Liverpool services and was simply looking to make use of a vacant slot for a fixed period to alleviate overcrowding and to improve safety and performance.

Great Western Railway said that it had no comment on the application.

East West Rail expressed concern for the potential impact to its services. WMT replied in detail why it thought there would be no impact.

Grand Union Trains said that it had no objection to a time limited proposal if no other solution was possible.

### **ORR review**

We considered the practical and policy implications of approving this right, when we are aware that it may conflict with existing longstanding applications for additional services on the WCML from Avanti West Coast and Grand Union Trains which we have not yet concluded on. We were content that, in considering all of our statutory duties, it was in the best interests of passengers to approve this additional peak service for a time-limited period. The intended start date for services in both the existing applications is after the expiry date of the access right for WMT we have approved.

While track access agreements are time limited, with specified expiry dates, it is most likely that the train operator or funder will intend the services (or similar services) to continue running after the expiry date of the agreement. Reflecting this, there is a strong presumption in our approach in favour of the extension of current access rights except where we have said otherwise.

Clearly, there is a possibility that, in due course, WMT may apply for an extension of this service. We will consider any request to extend this right in light of our statutory duties and the information available at the time. Our usual presumption in favour of the extension of existing access rights should not be assumed.

### **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 'Jonathan Rodgers', is positioned below the text 'Yours sincerely'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Jonathan Rodgers**