

Jonathan Rodgers
Senior Executive, Access and Licensing
Telephone: 0207 282 3775
E-mail: jonathan.rodgers@orr.gsi.gov.uk

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,

Thirteenth 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 17 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 the access rights it needs to run its December 2022 timetable. This includes the following changes:

- Conversion of contingent rights to firm between Coventry and Leamington Spa on Sundays
- An increase in quantum of access rights between Birmingham New Street and Birmingham International
- Services that previously terminated at Watford Junction extended to Tring

- Firm rights to combine slots Birmingham New Street for cross city services, at Coventry for Nuneaton to Leamington Spa and at Birmingham Snow Hill for any origin and destination.

All access rights applied for were consistent with those agreed at the West Coast Mainline Event Steering Group (ESG). One of the rights between London Euston and Northampton that had been agreed as part of the ESG, was initially not supported by Network Rail's sale of access rights process and formed a separate application, the 15th SA.

Industry consultation

Network Rail undertook the usual industry consultation between 18 August and 19 September 2022. Transport Focus queried if it had been invited to the ESG. Network Rail confirmed that it had been invited but declined to attend. Liverpool City Region said that, as long as there was no impact, it had no issues. WMT answered with regard to the 15th SA and this was accepted. East West Rail said that the proposed changes needed to be cognisant with its paths, as agreed by the WCML ESG. WMT confirmed this was the case. Cross Country asked if the application was a simple recalibration of rights and WMT replied and said the application was about ensuring rights match with what was agreed at the ESG and a general "tidy up" of access rights.

ORR review

We asked the parties to provide a fuller explanation the services that were changing, as their application was vague, did not contain sufficient information and also contained a number of drafting errors. We asked about the structure of WMT's services in relation to performance. All these queries were answered satisfactorily. We note that the paper supporting this application was deferred at Network Rail's July Sale Of Access Right Panel as they wanted to see an updated paper with additional details included on the rights changes being proposed. In future, the parties will need to work together to improve the standard of their applications.

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