

Jonathan Rodgers
Senior Executive



7 March 2023

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Chris Dellard
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Dear Ewelina and Chris

Approval of the Ninth supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Transport for Wales Limited (TfWRL) dated 7 February 2021

We have today approved the above supplemental agreement submitted to us formally on 27 February 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 make a number of changes to access rights in the contract in order to introduce additional services in the HL02, HL02 and HL05 service groups.

The changes were intended to take effect on the Principal Change Date 2022 and expire on the Expiry Date or earlier termination of TfWRL's track access contract. Due to delays in the handling of this application the industry consultation did not conclude until one day before the timetable change date. The access rights were, therefore, put in place on a short term, contingent basis via a General Approval, agreed by the parties.



Industry consultation

Network Rail undertook the usual industry consultation between 8 November and 8 December 2022. Cross Country responded with a number of queries and concerns but these were resolved by correspondence.

ORR review

Our review of the application raised no operational, performance or economic concerns and the access rights have now been put in place as intended. Network Rail needs to avoid repeating the poor handling of this application which led to a significantly delayed submission to ORR. We are currently discussing this with Network Rail.

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', written over a faint horizontal line.

Jonathan Rodgers