

**David Reed**  
Senior Executive, Access & Licensing



10 November 2023

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

Scott Turner  
Network Access Manager  
West Midlands Trains Limited  
West Midlands Trains Limited  
134 Edmund Street  
Birmingham  
B3 2ES

Dear Paul and Scott,

**Approval of the 19th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and West Midlands Trains Limited dated 15 May 2019**

We have today approved the above supplemental agreement submitted to us formally on 10 November 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.

**Background**

West Midlands Trains Limited (WMT) applied in its 16<sup>th</sup> Supplemental Agreement for significant service changes in May 2023. In our decision on that application, we noted concerns on the timeliness of the application and the performance information to support the application. For that reason, the changes were time-limited to the Principal Change Date in December 2023.

**Purpose**

This application seeks to extend the changes made in the 16<sup>th</sup> Supplemental Agreement from the Principal Change Date in December 2023 to the end of WMT's contract in September 2026.



In addition, it proposes some minor changes to rights between Birmingham Snow Hill, Stourbridge Junction and Leamington Spa.

### **Industry consultation**

Network Rail carried out the standard industry consultation in July and August 2023. Chiltern Railways raised some concerns over the tightness of the timing of additional trains at Leamington Spa. Following discussions between Chiltern Railways and WMT, it was content with the actions put in place by WMT to mitigate against these concerns. No other issues were raised by consultees.

### **ORR review**

Our review of the application raised no operational, performance or economic concerns. The parties submitted sufficient performance analysis to support the application.

We made significant suggestions to the drafting of the supplemental in order to correct errors arising from the interactions between the WMT 16<sup>th</sup>, 17<sup>th</sup> and 19<sup>th</sup> supplemental agreements.

The review of the application also highlighted errors in Schedule 5 of the contract caused by the WMT 16<sup>th</sup> supplemental agreement. These have been corrected in the short term by the 20<sup>th</sup> General Approval and have been permanently corrected through this supplemental agreement.

### **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 'David Reed', written in a cursive style.

**David Reed**