

Claire Brooks
Access executive



9 July 2024

Akaash Bhandari
Franchise and Access Support Manager
Network Rail Infrastructure Ltd
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Centenary Square, Broad Street
Birmingham, B1 2ND

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

Dear Akaash and Scott,

Approval of the 29th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited dated 15 May 2009.

We have today approved the above supplemental agreement submitted to us formally on 4 July 2024 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 supplemental agreement is to add firm rights from the date of ORR's approval to the Principal Change Date in 2024 within the following Service Groups: EJ01, EJ03 and EJ05

West Midlands Trains Ltd, during a rights review, identified 19 services that were running without access rights. In order to provide for temporary contractual rights whilst this error was resolved, the parties used the General Approval (the 25th SA) to put in place contingent rights for 90 days while this application for firm rights was progressed. Those contingent rights expired on 25 June 2024. The relevant services have been running without access rights since that date.



Industry consultation

Network Rail undertook the industry consultation between 3 May 2024 and 3 June 2024. There were two responses, with comments in support were received from London TravelWatch and Transport Focus.

ORR review

Our review of the application raised no operational, performance or economic concerns.

This application demonstrated the need for the parties to conduct regular rights reviews to ensure that access rights in contracts correctly reflect services that are running. We invited formal submission of this agreement on 19 June 2024, leaving the parties with sufficient time sign it.

We identified a minor drafting issue and asked for it to be corrected in the formal submission. This was not corrected in the first formal submission dated 2 July. We asked for a further, correct formal submission, which was received on the 4 July 2024 and Network Rail confirmed the incorrect original formal submission was withdrawn on 9 July 2024.

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

Claire Brooks