

**Jonathan Rodgers**  
Senior Executive, Access & Licensing  
E-mail: [REDACTED]



13 December 2024

Akaash Bhandari  
Franchise and Access Support Manager  
Network Rail Infrastructure Ltd  
2nd Floor, Baskerville House  
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 34th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited (WMT) dated 15 May 2019**

We have today approved the above supplemental agreement submitted to us formally on 11 December 2024 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration.

ORR's approval of this application allows WMT to operate its December 2024 timetable in the Liverpool and Shrewsbury Corridors. This letter explains the reasons for our decision. It also explains ORR's position on the concurrent applications that WMT has submitted in accordance with section 22A of the Act.

ORR's [Guidance](#), for submitting access applications, states that Passenger operators should aim to have rights approved by ORR before a timetable is published, to align with Network Code contractual timescales. This ensures services with access rights can be reflected in the timetable at least 12 weeks in advance (T12). This underpins passengers' confidence to buy advance purchase tickets. These timescales were not met. Failure to adhere to the prescribed timescales increases the risk of adverse outcomes for passengers and industry. This is particularly concerning since Network Rail and WMT were following a Network Rail plan, published on 8 August 2024, to make sure that all operators had the necessary rights in place for December 2024. Industry cannot collectively continue to prepare for timetable change at such late notice.

Head Office: 25 Cabot Square, London E14 4QZT: 020 7282 2000 orr.gov.uk



## **Concurrent section 22A applications**

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. WMT submitted five such applications on 20 May 2024.

In reaching a decision on this supported 34th supplemental agreement, it is important to clarify that:

- ORR has reached its decision in the full knowledge of WMT’s concurrent section 22A applications;
- WMT’s section 22A applications remain “live” and we continue to try to progress them. However, ORR is not currently in a position to reach a decision in relation to that application. Additionally, Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible; and
- most importantly, the approval of the 34th supplemental agreement ensures that WMT has approved access rights in the December 2024 timetable.

## **Purpose of 34th supplemental agreement**

The purpose of the 34th supplemental agreement is to grant WMT the rights necessary to operate its December 2024 timetable. This entails the addition of new contingent weekday, Saturday and Sunday rights in the EJ02 (Trent Valley), EJ03 (West Midlands New Street Locals) and EJ04 (West Midlands Inter Urban) Service Groups.

ORR notes that WMT has two other supplemental agreement (35th and 37th SAs) that are due to come into effect on the Principal Change Date (PCD) in December 2024, and which make changes to some of the same service groups. We have asked the parties to the contract to ensure that the effective dates and times are arranged so that no amendments are cancelled out by others.

The rights are to commence on PCD 2024 and will expire on the Subsidiary Change Date (SCD) in May 2025.

Network Rail noted that it could only agree to the requested additional access rights until SCD 2025 due to potentially competing applications from other train operators, and that



there could be no presumption of the continuation of these additional rights beyond SCD 2025.

### **Industry consultation**

Network Rail undertook the usual industry consultation. CrossCountry, Great Western Railway, Northern, and Transport Focus all responded to note that they had no objections. No other comments or queries were received.

### **ORR review**

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

We noted Network Rail's position on the continuation of additional rights SCD 2025 due to competing aspirations from other train operators. In light of this, our usual policy of a strong presumption of the continuation of existing rights will not apply for these access rights beyond SCD 2025.

### **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 be 'Jonathan Rodgers', written in a cursive style.

**Jonathan Rodgers**