

**Louise Beilby**  
**Access Executive**  
Telephone: 0207 282 2076  
E-mail: [louise.beilby@orr.gov.uk](mailto:louise.beilby@orr.gov.uk)



5 November 2021

Jayne Tipton  
Customer Manager  
Network Rail Infrastructure Ltd  
Western House  
1 Holbrook Way  
Swindon  
SN1 1BD

Rob Holder  
Network Access Manager  
First Greater Western Ltd  
Milford House  
1 Milford Street  
Swindon  
SN1 1HL

Dear Jayne and Rob

**Approval of the 72nd supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First Greater Western Limited dated 4 March 2016**

We have today approved the above supplemental agreement submitted to us formally on 4 November 2021 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 grant First Greater Western the rights necessary to operate its proposed December 2021 timetable. This includes: the extension of services between London and Bristol into Somerset and Devon; the takeover of a path between Cardiff and Bristol formerly run by Cross Country; and an additional service between Portsmouth and Cardiff service to fill the gap left by the withdrawal of a South Western Trains service. The rights are to commence on the Principal Change Date (PCD) 2021 and will expire on the Expiry Date or earlier termination of First Greater Western's track access contract (TAC).

**Industry consultation**

Network Rail undertook the usual industry consultation. Comments in support or stating no objection were received from Cross Country, MTR and Transport Focus.

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South Western Trains queried how long First Greater Western hoped to run the service that was filling the gap left by the withdrawal of one of their services, as it is planning to resume operating on that route from December 2022. First Greater Western has confirmed that the amendments are currently planned to run until the contract end date, which is the Subsidiary Change Date 2022, although an application for an extension to PCD 2022 is in process. South Western Trains is content with this, but to ensure that there are no future clashes, First Greater Western has agreed to apply for this part of the supplemental agreement as contingent instead of firm rights.

## **ORR review**

The main concern identified from our review was that Cross Country Trains did not appear to have formally relinquished the right from their TAC that First Greater Western was taking over from them. On following this up, we found that this had not been done by Cross Country and it subsequently dealt with the amendment by way of a General Approval, which removes the route from its TAC as of PCD 2021. Our other queries related to capacity and performance, and were answered by Network Rail to our satisfaction. There were some minor drafting issues which were resolved when the agreement was formally submitted.

## **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)).

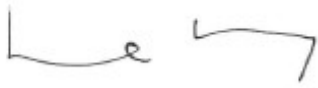
## **Conformed copy of the track access agreement**

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 'Le' followed by a stylized flourish.

**Louise Beilby**