

David Reed
Senior Executive, Access & Licensing



25 April 2025

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Scott Turner
Network Access Manager
West Midlands Trains Limited
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Dear Akaash and Scott

Approval of the 42nd 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 24 April 2025 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 extend the contingent rights necessary for WMT to operate its timetable from the Subsidiary Change Date (SCD) in May 2025. These rights were previously agreed to on a time limited basis in the WMT 34th and 37th supplemental agreements from December 2024 to May 2025, and include additional rights on the Liverpool, Shrewsbury, Worcester and Stafford-Crewe corridors.

Network Rail noted that it could only agree to the continuation of these contingent access rights until the Principal Change Date (PCD) in December 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 PCD 2025.

Industry consultation

Network Rail undertook the usual industry consultation. The application was supported by Avanti West Coast, Chiltern, CrossCountry Trains, Great Western Railway and Transport Focus.



ORR review

Our review of the application raised no operational, performance or economic concerns. We spotted a number of drafting issues related to the interaction between the WMT 41st and WMT 42nd supplemental agreements, which will both become effective on SCD 2025. We raised these issues with the parties and they provided suitable updated draft supplemental agreements.

We noted Network Rail's position on the continuation of the time-limited contingent rights beyond PCD 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 the continuation of these rights beyond PCD 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

David Reed