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05 May 2026

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Dear Jayne and Rob

301st and 120th Supplemental Agreements to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and First Greater Western Limited (trading as Great Western Railway (GWR)) dated 4 March 2016

1. Today, we decided two applications related to services between Oxford, Swindon and Bristol. The direction allows GWR to run additional ‘two hourly’ Weekday and Saturday services from the May 2026 timetable change. Before the services start, Network Rail must decide upon and implement reasonably practicable measures to mitigate the increase in level crossing risk. We will direct Network Rail and GWR (jointly the parties), under section 22A of the Railways Act 1993 (the Act), to enter into a supplemental agreement (SA), covering both applications. This letter explains the reasons for our decision.

Application (including revisions and additional applications)

Initial application

2. On 27 May 2025, GWR submitted an application (the 301st), under section 22A of the Act, for access rights for an hourly Weekday and Saturday Bristol Temple Meads to Oxford service. The application proposed the introduction of services initially every two hours from the Subsidiary Change Date (SCD) in May 2026 with a full hourly service from SCD 2027. The rights would expire at the end of the current contract, currently the Principal Change Date (PCD) in December 2028.

Revised applications

3. On 28 January 2026, GWR advised us that development of the timetable meant the application needed updating. This update included one Saturday service originating from Swindon rather than Bristol Temple Meads and a calling pattern change. Revisions to the application reflecting the changes were submitted on 10 and 24 February 2026. The changes were reductions to the original application.

Additional applications (117th SA & 120th SA)

4. The timetable development also required additional applications to reflect the need for increased access rights and error corrections. The 117th SA was submitted on 10 February 2026 and covered access rights for an additional Oxford to Bristol Temple Meads service from SCD 2027 and an additional Swindon to Oxford service for SCD 2026. GWR then identified a further revision was required so submitted the 120th SA on 24 February 2026. The 120th SA included all the changes from the 117th SA, so that application was formally withdrawn.

5. The 120th SA applied to convert an existing empty stock movement into a timetabled passenger service between Oxford and Bristol Temple Meads (Mondays–Fridays, from SCD 2026) and permit the timetabling of one Swindon–Oxford service on Saturdays from SCD 2026, separating it from a previously through-service from Bristol.

6. Together, the 301st SA and the 120th SA reflect GWR's final access right requirements for SCD 2026. We will direct the parties to enter into a combined SA, once the parties have provided one that reflects our decision, as we have decided the applications together.

Industry consultation

301st SA

7. Network Rail undertook the usual industry consultation between 29 May and 26 June 2025. Comments were received from Chiltern Railways, Cross Country, Transport Focus, Transport for Wales and Freightliner. Transport Focus supported the application. Transport for Wales noted its own plans for services from West Wales into Bristol Temple Meads and referred to Network Rail's ongoing timetable analysis work and performance modelling.

8. The issues raised by the other operators related to capacity analysis and performance modelling, Train Planning Rule development, impact on freight services and concerns about future freight paths. Following the end of the consultation, GWR communicated with Freightliner and Cross Country regarding their concerns. Chiltern Railways concerns related to Network Rail's capacity and performance work which, at that stage had not been completed.

120th SA

9. Network Rail undertook the usual industry consultation between 27 February and 27 March 2026. No concerns were raised. Transport for Wales said that its comments made in response to the 301st SA consultation were still applicable. It did not believe that the GWR proposals would interact with its services but expected performance modelling outcomes to be shared in due course.

Statutory Consultation

301st SA

10. As required under the Act, on 2 June 2025, we sought Network Rail's representations on the 301st SA. It replied on 23 June 2025 with an initial response to the application stating it was not able to make final representations. We forwarded these representations to GWR, on 25 June 2025, and asked for comments. GWR provided comments on 1 July 2025.

11. Network Rail provided further representations on 29 August 2025. It explained it was still not in a position to provide final representations as it needed to carry out further analysis. We forwarded these representations to GWR, on 29 August 2025, and asked for its comments. GWR provided comments on 10 September 2025.

12. Network Rail provided its final representations on the 301st SA on 13 November 2025. We forwarded these representations to GWR, on 13 November 2025, and asked for its comments. GWR provided comments on 24 November 2025.

13. On 7 November 2025, we wrote to Network Rail regarding disputed applications submitted to ORR requesting capacity on the section of infrastructure between Foxhall Junction and Wootton Bassett Junction. The GWR 301st SA was one of the disputed applications. We asked Network Rail to provide information to us by 8 December 2025.

14. On 8 December 2025, Network Rail provided its final representations on the disputed applications. This included the final representations on the GWR 301st SA which we had already seen and a letter summarising its position.

120th SA

15. As required under the Act, on 26 February 2026, we sought Network Rail's representations on the 120th SA. It replied on 23 March 2026 referring to its representations as "initial" but subsequently confirmed this was an error and the representations were final. We forwarded these representations to GWR, on 24 March 2026, and asked for its comments. GWR provided comments on 24 March 2026.



Network Rail's initial and further representations on the 301st SA

16. As Network Rail's earlier representations were updated, we do not consider it necessary to comment on them in detail. Network Rail was still working to establish whether or not it could support GWR's application.

17. The important point to note from the "further" representations was the commentary on 13 level crossings that would be affected by the proposed GWR services. The representations also included a "Level Crossing Mitigation and Alternatives Risk Assessment" which set out an average increase in risk at the level crossings of 15.6% and the total cost of mitigations required.

Network Rail's final representations on the 301st SA

18. In these representations Network Rail first set out its considerations regarding capacity, resulting from its performance analysis, and highlighted several operational and performance risks associated with the application. These included the need for empty coaching stock (ECS) moves at Oxford which risked punctuality and the likelihood of delays. The representations commented on risk of conflicts and delays arising from GWR services crossing junctions at Didcot North and Foxhall and existing poor performance at Bathampton Junction.

19. Network Rail confirmed that, from a timetable capacity perspective, it could accommodate all of the GWR services compliantly with Train Planning Rules (TPR) but due to some conflicts with freight services some GWR services would need to divert via Bristol Parkway rather than Bath Spa.

20. Network Rail said that, overall, its analysis underscores that the increased volume and complexity of GWR operations at Oxford, combined with infrastructure constraints and tight scheduling, present significant challenges to maintaining reliable performance.

21. Network Rail reiterated what it had said in the previous representations regarding the mix of freight and long distance and local passenger services at Oxford, describing the area as "highly trafficked". It said that traffic levels are expected to rise with the introduction of proposed East West Rail (EWR) services. Given the timescales for the various EWR phases it said that it will not be able to confirm the continuation of existing services once those phases are introduced.

22. Network Rail noted that other submitted applications sought to utilise part of the same geography as the proposed rights in this application and also noted that it had issued an Early Indicator of Likely Congestion in relation to the Great Western Mainline between Foxhall Junction and Wooton Bassett Junction.

23. Network Rail went on to summarise its performance risk assessment relating to this application and stated that it was unable to fully support it. However, given that it had

identified a direct Bristol-Oxford connection via Swindon as a strategic consideration, it was supportive of trialling this service, subject to sufficient capacity and performance and freight requirements being met. This meant that it would support contingent access rights for a service on a two hourly basis for three timetables (i.e. from SCD 2026 to PCD 2027) with no presumption of continuity. Train operators can have two types of access rights. When compiling the timetable, Network Rail must first accommodate all Firm rights held by operators. Contingent rights are only accommodated if there is space after all Firm rights are dealt with.

24. With regard to GWR's aspirations for firm access rights for a one hourly service from SCD 2027, Network Rail stated that a performance review would be conducted before making a further decision.

25. Network Rail set out its considerations on the 13 level crossings that would be affected by the proposed GWR services. It commented in detail on what it referred to as "*the considerable increase in risk*" identified in its review and again referred to the potential interventions (and cost) required to mitigate that risk. The information provided by Network Rail did not set out a plan or timetable for implementing mitigations and only referred to "interim" mitigations that may be implemented during the trial period.

26. Network Rail went on to request that ORR places a condition upon GWR in its directions providing a total contribution of £1.75 million to fund essential safety improvements and risk reduction measures at level crossings.

GWR's comments

27. GWR stated that it was grateful for Network Rail's representations and that it retained a need for firm rights. GWR also expressed concern about committing funding for level crossing improvements before an ongoing firm right to an hourly service was secured.

ORR review

Capacity and performance

28. We have carefully considered Network Rail's decision to support contingent access rights for a trial of a two hourly service for three timetables along with its suggestion to undertake a performance review before making a decision on GWR's aspirations for firm rights and an hourly service. While supporting contingent rights gives an opportunity to realise the potential benefits of a direct connection between Bristol and Oxford, it does not provide certainty. We understand Network Rail's need to have regard for capacity and performance concerns, future EWR services and freight requirements. However, it is its responsibility to produce timely evidence to take long-term decisions. Our directions recognise Network Rail has not produced evidence for a long-term decision.

29. We consider Network Rail's position on the continuation of the additional rights, beyond PCD 2027 as appropriate given the multiple factors which need further certainty. Therefore, our usual policy of a strong presumption of the continuation of existing rights will not apply for the extension of the additional rights beyond PCD 2027.

30. Network Rail has stated it will not form a long-term view on the full GWR proposal until it has carried out a performance review of a trial at an unspecified future date. Therefore, at the moment, we do not consider there is sufficient evidence for ORR to support firm access rights for the two hourly service or for an increase to a one hourly service from SCD 2027. Following this decision, we will write to Network Rail to emphasise the importance of Network Rail producing a robust evidence base to take long-term access decisions.

Safety

31. ORR works closely with the rail industry to help improve level crossing safety. The law requires railway dutyholders to reduce level crossing risk so far as is reasonably practicable. ORR, in its role as the health and safety regulator for the railway, checks if duty-holders are achieving this and can take enforcement as needed.

32. Upon receiving Network Rail's representations and GWR's final application we have sought clarity several times on the Network Rail position on level crossing risks and necessary mitigations. On 6 March 2026, Network Rail confirmed that its position was that the proposed additional services would result in a considerable increase in risk at 13 level crossings. In its evidence, Network Rail listed the mitigations required and stated that it did not plan to implement mitigations before the start of the additional services.

33. We asked Network Rail why it considered an increase in services in the timetable without mitigations was appropriate. This led to further discussions which resulted in Network Rail agreeing to provide a further risk assessment. This was shared with ORR on 2 April 2026. This assessment set out a number of interim mitigations and stated that, if ORR supported GWR's application and GWR provided funding to Network Rail before the services commenced, these interim mitigations would be put in place.

34. The assessment referred to different mitigation phases. The first phase would be interim mitigations that could be implemented 'as soon as possible'. The assessment also included a phase involving the installation of Overlay Miniature Stop Lights (OMSLs). Network Rail's assessment shows that together, the interim mitigations and OMSLs comprise reasonably practicable measures for the two hourly service. The assessment also referred to further mitigations that would need to be funded "*should the service increase to hourly or the operator seeks firm rights for the service.*"

35. We did not consider that the assessment was sufficiently clear about which level crossings needed OMSLs and therefore had a longer implementation timeline for risk

mitigation. We queried this with Network Rail. It confirmed that OMSLs would be installed at Canalside 1 and Bathampton level crossings.

36. We carefully considered the information Network Rail provided on the risks it identified at the 13 level crossings affected by GWR's application and its proposals for mitigating those risks. We consider that the increase in risk and the necessary mitigations is not the same at all of the level crossings. However, the risks should be considered against a backdrop of 15 fatalities at level crossings across the network in the last 18 months, 2 of which occurred in Western Route (covered by these GWR services). Any unmitigated increase in level crossing risk which is introduced by the rail industry is of concern.

37. Our view is that once Network Rail have identified an increase in risk, it should mitigate that risk, so far as is reasonably practicable, before it materialises. This means the additional two hourly GWR services should only be introduced once the Network Rail identified reasonably practicable mitigation measures have been fully implemented. Network Rail told us in May that it has reached a different view of the risk and identified alternative reasonably practicable measures to those it identified in response to GWR's application. If Network Rail is satisfied these alternative measures achieve an equivalent effect to those proposed in its original representations, it may decide to implement them instead before the services start. ORR will engage separately with Network Rail regarding its safety responsibilities and processes.

Funding

38. We note it is unusual for Network Rail to request ORR places a condition related to funding upon a public sector operator but did for this application. Network Rail requested ORR direct GWR to provide a total contribution of £1.75 million to fund essential safety improvements and risk reduction measures.

39. In reviewing this application, we asked DfT for its position on funding the specific level crossing mitigations referenced. DfT's responded saying: *"If the ORR is satisfied that the request from Network Rail is appropriate, then it would be reasonable to seek a contribution from the operator towards mitigations which can be implemented during the currency of the trial period. Any contributions towards closures should be limited to a commitment to contribute which Network Rail would only seek to recover once it has secured all necessary funding to progress the closure."*

40. We consider that the funding of safety and/or infrastructure improvements relating to services proposed by a public sector operator (like GWR) is best resolved in advance of applications to ORR. Given the planning of the services by the operator would have involved the funder, the Department for Transport (DfT), they should have been part of resolving the necessary infrastructure works ahead of an application to ORR. Funding requirements within the public sector should not form part of ORR's consideration when making an access decision. We do understand that ORR decisions can be a factor in

funding discussions, however this is normally for third party investors. For the reasons set out above, it would not be appropriate for ORR to place a condition relating to funding in the SA.

Summary

41. We will direct the parties to enter into a supplemental agreement (SA). However, based on the evidence provided, the additional two hourly GWR services should only be introduced once the reasonably practicable measures identified by Network Rail in its representations or alternatives achieving an equivalent effect have been implemented.

Our duties under section 4 of the Act and our decision

42. We have considered this supplemental agreement and concluded that its approval is consistent with the discharge of our statutory duties, under section 4 of the Act. In particular, those relating to promoting improvements in railway service performance (section 4(1)(b)), 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)) and to take into account the need to protect all persons from dangers arising from the operation of railways (section 4(3) (a)).

43. We have considered all the evidence submitted from the parties and consultees very closely. We have concluded that we should direct the application on the basis set out in this letter. For the avoidance of doubt, this is:

- Contingent rights for a two hourly service from SCD 2026 until PCD 2027;
- Our usual policy of a strong presumption of the continuation of existing rights will not apply for an extension of the additional rights beyond PCD 2027; and

44. We will issue a directions notice, reflecting this decision. GWR now needs to work with Network Rail to promptly submit a draft SA for our consideration that reflects the decision set out in this letter.

Conformed copy of the track access contract

45. 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 GWR. ORR's copy should be sent to track.access@orr.gov.uk for the attention of jonathan.rodgers@orr.gov.uk.



Public register and administration

46. Once our directions are issued, copies of this letter, the directions notice and the SA will be sent to Network Rail's Policy and Access Team. Copies of the directions notice and the SA will be placed on ORR's public register (website) and copies of this letter and the SA will be placed on the ORR website.

Yours sincerely

Gareth Clancy