

**Claire Brooks**  
Access Executive



8 March 2024

Akaash Bhandari  
Franchise and Access Support Manager  
Network Rail Infrastructure Ltd  
2<sup>nd</sup> 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 24th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited dated 15 May 2019.**

We have today approved the above supplemental agreement submitted to us formally on 6 March 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 agreement is to grant West Midlands Trains firm rights to 7 services identified as running without access rights during a due diligence exercise. The service groups being amended are EJ02 (2 firm rights), EJ03 (3 firm rights) and EJ04 (2 firm rights). These rights will expire at PCD 2024.

The missing firm rights were covered by the 21st General Approval (90-day contingent rights) which expired on the 4 February 2024. The 24th Supplemental Agreement was informally submitted to ORR on Wednesday 31 January 2024 which was only 2 working days before the 21st General Approval expired on Sunday 4 February 2024. This gave ORR no opportunity to review the submission in time to meet the expiring General Approval. Future applications need to be submitted to ORR in a timely manner so that the review can be carried out fully prior to any rights lapsing.

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The 24th Supplemental Agreement will also correct an administrative error with regards to table 2.2 whereby contingent rights were added in error to table 2.1 during the formal submission of the 19<sup>th</sup> Supplemental Agreement. These tables will then be amended to show the correct contingent rights in table 2.2.

### **Industry consultation**

Network Rail undertook the usual industry consultation. No concerns were raised.

### **ORR review**

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

### **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**