

Application to the Office of Rail Regulation for a passenger track access agreement, or amendment to a passenger track access agreement under sections 17-22A of the Railways Act 1993

1. Introduction

Please use this form to apply to the Office of Rail Regulation (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our [criteria and procedures](#) (C&Ps) and, where appropriate, to the [Industry Code of Practice](#) for track access application consultations (the Code of Practice). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published [model passenger track access contract](#) as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us [here](#).

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: www.rail-reg.gov.uk.

2. The application

2.1 Title of proposed contract or supplemental agreement:

FORTY SEVENTH SUPPLEMENTAL AGREEMENT between NETWORK RAIL INFRASTRUCTURE LIMITED and FIRST CAPITAL CONNECT LIMITED relating to the Track Access Contract (Passenger Services) dated 09 February 2006.

2.2 Contact details (Company and named individual for queries):

Facility Owner

Company: Network Rail Infrastructure Ltd (NRIL)

Contact individual: Paul Garner

Job title: Customer Manager

Address: Floor 5

1 Eversholt Street
Euston

London, NW1 2DN

0207 904 7862

Paul.Garner@networkrail.co.uk

Beneficiary

Company: First Capital Connect Ltd. (FCC)

Contact individual: John Beer

Job title: Head of Access Contracts

Address: Hertford House

1 Cranwood Street

London

EC1V 9QS

020 7427 2927

020 7427 2235

John.beer@firstgroup.com

2.3 Licence and railway safety certificate: please state whether you intend to operate the services yourself or have them operated on your behalf.

Does the proposed operator of the services (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and** (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006. If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

C&Ps paras 3.9-3.15

(a) FCC holds a valid train operating licence under Section 8 of the Railways Act 1993. This was issued on 29 March 2006.

(b) FCC, as a Transport Undertaking and as Infrastructure Manager has an accepted safety certificate and authorisation as required under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

3. The proposed contract or amendment

3.1 Executive summary: please provide an executive summary of the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment). **C&Ps para 3.22-3.28**

Please also explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#). If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

First Capital Connect is generating this Supplemental Agreement in order to seek additional or amended rights on both its Great Northern and Thameslink routes.

On Great Northern, several key stakeholder initiatives have been developed to either improve additional journey opportunities or to resolve certain crowding issues. Also, the implementation of the new Hitchin Grade separation facility has caused some minor operational changes which need to be reflected as timetable adjustments. Several other amendments are created as consequential of these outputs.

On Thameslink, The opportunity has been taken to add more West Hampstead calls to cross London services in order to standardise the service pattern whilst increasing connectional potential for customer benefit. On Sundays, FCC seeks to extend its Bedford – East Croydon service to/from Gatwick Airport so that customers may enjoy direct access to a key journey destination without the inconvenience of intermediate change.

More specifics can be found in **Section 4.1. Benefits**

3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): please set out here any areas of the application which have *not* been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. **C&Ps para 3.102**

None.

3.3 Departures from ORR's model passenger track access contract: please set out and explain here any:

- areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. **C&Ps paras 2.34-2.37**
- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps paras 5.1-5.44**
- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. **C&Ps paras 6.2-6.3**

None

4. The expression of access rights and the use of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

Service Group EG01(Bedford Main Line)

The following trains will facilitate customer benefit, whilst responding to stakeholder requests:-

19.52 SX St Albans – Sutton	To start back from Bedford
21.18 SUN Sutton – Blackfriars	To be extended to Bedford
08.59 SUN Gatwick Airport – Bedford	Additional
19.24 SUN Three Bridges – Bedford	Additional

Service Group EG02(Brighton Main Line)

The following trains will facilitate customer benefit, whilst responding to stakeholder requests:-

08.59 SUN Gatwick Airport – Bedford	Additional
09.47 SUN East Croydon – Luton	To start back from Three Bridges and be extended to Bedford
10.17 – 19.17 SUN East Croydon – Bedford	To start back from Three Bridge and every intermediate 30 mins
08.06 – 17.36 SUN Bedford – East Croydon	To be extended to Three Bridges and every intermediate 30 mins
19.24 SUN Three Bridges – Bedford	Additional
22.12 SUN Bedford – Three Bridges	To be extended to Brighton

Service Group EG04 (GN Inners)

The following trains will facilitate customer benefit, whilst responding to stakeholder requests:-

07.15 SX Moorgate – Hertford North	Additional
16.27 SX Hertford North – Moorgate	Additional
17.53 SX Gordon Hill – Moorgate	Additional
18.38 SX Moorgate – Gordon Hill	Additional
19.23 SX Gordon Hill – Moorgate	Additional
20.03 SX Moorgate – Finsbury Park	Additional

Service Group EG04 (GN Inners) (cont)

The remaining trains will be subject to adjustment caused by the introduction of the new Hitchin Grade Separation facility:-

08.18 SX Moorgate – Stevenage	To be extended to Letchworth
09.34 SX Stevenage – Moorgate	To start back from Letchworth
18.18 SX Moorgate – Letchworth	To terminate at Stevenage
19.36 SX Hertford North – Moorgate	To start back from Stevenage

The following train is withdrawn due to low usage:-

06.16 SUN Hertford North – Kings Cross	Withdrawn
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Service Group EG05 (GN Outers)

The following trains will facilitate customer benefit, whilst responding to stakeholder requests:-

05.14 SX Cambridge – Kings Cross	Additional
07.48 SX Ely – Kings Cross	To start back from Kings Lynn
08.39 SX Hitchin – Kings Cross	To start back from Letchworth
19.15 SX Kings Cross – Cambridge	To be extended to Ely
20.45 SX Cambridge – Kings Cross	To start back from Ely
22.45 SX Kings Cross – Cambridge	To be extended to Ely
23.15 MTWO Kings Cross – Ely	To be extended to Kings Lynn
21.44 SO Kings Cross – Cambridge	Additional
10.59 SUN Letchworth – Kings Cross	Additional
23.15 SUN Kings Cross – Ely	To be extended to King's Lynn

The remaining trains will be subject to adjustment caused by the introduction of the new Hitchin Grade Separation facility:-

20.36 SX Kings Cross – Letchworth	To be extended to Royston
21.36 SX Kings Cross – Letchworth	To be extended to Royston
22.36 SX Kings Cross – Letchworth	To be extended to Royston

Table 4.1. Calling Patterns

Service Group EG01(Bedford Main Line)

Adjustments made to this service group will increase interchange opportunities for customer benefit, whilst providing a more consistent service pattern:-

Farringdon to Bedford Fast	West Hampstead added to Additional Stations
Bedford to Blackfriars Fast	West Hampstead added to Additional Stations

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

NRIL has undertaken a validation of the proposed Passenger Train Slots and has established that there is sufficient network capacity to accommodate them. Accordingly, NRIL can accommodate FCC's revised Schedule 5 alongside Network Rails Core maintenance and future renewal activities.

4.3 Flexing rights: please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

There are no changes proposed to the existing agreement in relation to flexing rights

4.4 Protections and limitations: please describe whether the proposal contains:

- any protected rights and/or protected obligations (i.e. protection from subsequent amendment of the Network Code under Condition C8), and explain the reasons for this, with reference to ORR's criteria; and/or, **C&Ps paras 4.70-4.71**
- any other restrictive obligations on the facility owner (e.g. regular service intervals, clockface departures etc.), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 4.68-4.69**

There are no changes proposed to the existing agreement in relation to protections and limitations.

4.5 Journey time protection: please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

There are no changes proposed to the existing agreement in relation to journey time protection.

4.6 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of the vehicle and route acceptance procedure in the Network Code (Part F) has been completed. Please explain whether you have, or will have, the rolling stock necessary to exercise the rights being sought. **C&Ps paras 8.87-8.90**

There are no changes proposed to the existing agreement in relation to specified equipment.

4.7 Franchise obligations: please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

It is intended that all Slots specified in these proposals will be operated. This will assist FCC in fulfilling its obligations to the DfT under its Franchise Agreement.

4.8 Public funding: please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

The services do not require financial support from central or local Government.

4.9 Passenger Focus: please state whether (and if so to what extent) the proposed services have been discussed with Passenger Focus. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

Passenger Focus were included within the industry Consultation process. Passenger Focus welcomed the changes as well asked for detail of passenger numbers for the proposed cancellation of the 6.16 SuO from Hertford North, a full explanation was provided – correspondence attached.

4.10 Route utilisation strategies (RUSs): if applicable, please state which RUSs (including the Freight RUS) is considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. **C&Ps paras 4.5-4.8**

The proposals are relevant to and consistent with the London and South East, South London, Sussex, Kent and East Coast Main Line RUSs.

5. Incentives

5.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. **C&Ps paras 4.26-4.36**

None

5.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance. **C&Ps paras 4.26-4.36, 5.1**

N/A

5.3 Monitoring of services: would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

Yes

5.4 Performance regime changes (for applications under sections 17 or 22A only): where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed. **C&Ps para 5.38-5.40**

The Schedule 8 change is purely to rectify an error so as to be in line with the model clause contract.

6. Enhancement

6.1 Enhancement details: where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework). **C&Ps paras 4.80**

None

6.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

None

7. Other

7.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). **C&Ps paras 3.18-3.19**

No

7.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it. **C&Ps paras 6.12-6.16, 6.21**

N/A

7.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34, Code of Practice: 18-22**

None

Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed

8. Pre-application consultation

8.1 The consultation: has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **Code of Practice: 11-15,**

This proposed 47th Supplemental will be going out for Industry Consultation for 28 days. The following Stakeholders will be consulted:

Department for Transport
East Midlands Trains
First Great Western
Grand Central
First Hull Trains
Southeastern
Greater Anglia
London Overground
East Coast
Southern
Cross Country
DB Schenker
Devon & Cornwall Railways
Freightliner Group
GB Railfreight
West Coast Railway Company
TfL & Mayor
London Travel Watch
Passenger Focus

8.2 Resolved issues: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation. **Code of Practice: 47-48**

Southern raised questions regarding timetabling, performance and revenue abstraction. FCC fully engaged with Southern to prove the later with all information required. Changes to section 4.1 have been to rectify an observation made (replacing Gatwick with Three Bridges to 09.47, 10.17 and 08.06 service description)

ORR – Brian Hopkinson made some observation – which resulted in changes to minor changes to form P and proposed table 2.1, 4.1 and schedule 8 changes. Correspondence attached.

8.3 Unresolved issues: please set out any issues raised by consultees which have ***not*** been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you think these issues should not stop ORR approving the application. **Code of Practice: 45**

None

9. Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution **C&Ps para 3.40***

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed Date

Name (in caps) JUSTIN PAGE Job title ROUTE MANAGING DIRECTOR

For (company) NETWORK RAIL INFRASTRUCTURE LIMITED

10. Submission

10.1 What to send: please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. **C&Ps para 3.39**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps para 3.37-3.38**

10.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN