



APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT TRACK ACCESS CONTRACT, OR AN AMENDMENT, UNDER SECTIONS 17-22A OF THE RAILWAYS ACT 1993

1. Introduction

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

- Directions under section 17 of *The Railways Act 1993* (the Act) for a new track access contract. This is for companies who want to use Network Rail's network where the parties are not able (for whatever reason) to reach agreement.
- Approval for a new track access contract under section 18 of the Act. This is for use where terms have been agreed by the parties.
- Approval of a proposed amendment to an existing track access contract, agreed by both parties, under section 22 of the Act.
- Directions under section 22A of the Act for an amendment to an existing track access contract. This is for someone seeking an amendment to an existing track access contract to permit more extensive use of the railway facility if the parties are not able, for whatever reason, to reach agreement.

Network Rail should normally take responsibility for the pre-application consultation, where the terms are agreed. Before a consultation is made, complete this form up to the end of section 7. You should fill in the rest of the form after the consultation and before applying to ORR.

If, in the case of section 17 and 22A applications, the beneficiary and Network Rail have been unable to agree terms, the beneficiary should:

- (a) ask Network Rail to conduct a pre-application consultation in line with the code of practice; or
- (b) conduct a pre-application consultation itself, in line with the code of practice; or
- (c) submit the application to ORR and ask ORR to conduct the consultation, in which case, please complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) explains the process, timings and the issues we will consider. You should use our current [model freight track access contract](#) as your starting point. Please read the guidance before completing the contract and this form.

We are happy to talk to you informally before you apply. Please contact us [here](#). You can download a copy of this form, and of our model track access contract, from our [website](#).

You may also use and adapt this form to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

2. The application

2.1 Title of contract or supplemental agreement (please also include the section of the Act under which you are applying):

Freightliner Heavy Haul Limited 10th Supplemental Agreement to the December 2016 Track Access Contract – Section 22A Application.

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

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail Infrastructure Ltd	Company: Freightliner Heavy Haul Ltd
Contact individual: Emma Day	Contact individual: Chris Matthews
Job title: Customer Relations Executive	Job title: Track Access Manager
Telephone number: [redacted]	Telephone number: [redacted]
E-mail address: [redacted]	E-mail address: [redacted]
Address: Network Rail Ltd., 1 Eversholt Street, London. NW1 2DN	Address: Freightliner Heavy Haul Ltd., 3 rd Floor, 90 Whitfield Street, Fitzrovia, London. W1T 4EZ

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

Freightliner Heavy Haul Limited intends to operate the services itself and holds a valid operating licence under Section 8 of the Railways Act 1993. Freightliner also holds safety certificates, Part A and B, under Regulation 7 of the Railways, and other Guided Transport Systems (Safety) Regulations 2006.

Does the proposed operator of the services (a) hold a valid train operating licence under section 8 of the Act or an exemption under section 7, or a European licence with a GB Statement of National Regulatory Provisions issued under the *The Railway (Licensing of Railway Undertakings) Regulations 2005* **and** (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006?

If the answer to either (a) or (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate (as relevant).

Not applicable

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, in the case of an amendment, fully highlight the changes from the previous version of the contract.

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).

Please also state the commencement and expiry dates for the proposal, and, for new contracts or extensions to existing contracts, provide justification for the proposed duration of the contract where the total exceeds five years.

Date of commencement: 11th December 2016

Expiry date: December 2026 (PCD 2026)

Freightliner Heavy Haul Limited ('Freightliner') holds a new Track Access Contract (Freight Services), dated 11th December 2016, expiring on the Principal Change Date (PCD) of December 2026.

Freightliner was awarded the Mendip Rail Haulage Contact commencing 3rd November 2019. Upon completion of the Part D/Part J process, it was evident that the Mendip Rights Table had not been updated for a number of years and, as a result, neither commercial changes to the traffic, or amendments to the train plan to support major passenger timetable changes on Western route (both for GWR and MTR Crossrail) had been updated in the Rights Table. While the processing of this major update to correct this was delayed due to the impact of COVID-19, Freightliner are now seeking to update the Rights to reflect the current train plan, with train characteristics to reflect paths as offered in the December 2020 Working Timetable.

These Rights will support continuing growth in the Construction Sector, sustaining road and house building and underpinning economic growth across Southern England, by providing the assurance of a stable train plan for the foreseeable future, while removing Rights no longer required, thus releasing capacity over busy routes. Stability in the train plan will allow Freightliner to focus on incremental improvements throughout, prioritising the continued improvement in performance across all Mendip services.

This update of all Rights will take place across two supplementals, those on which Freightliner have been able to reach agreement with Network Rail over progression (9th Supplemental), and those where it has not been possible to do this, for a variety of reasons (10th Supplemental).

This supplemental reflects those Rights not agreed with Network Rail:

29 additional one-hour window firm rights are being requested.

25 Firm Rights are being amended to reflect current operations and WTT train slots.

Note that, as part of the 9th Supplemental, Freightliner surrendered 37 firm rights.

Freightliner are requesting Firm Rights with one-hour windows in line with the ORR directions letter of 29th February 2016. Further details are provided in sections 4.1 and 4.3.

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. Please state the efforts you are making to resolve any disputes.

Network Rail would not progress this application to the Sale of Access Rights ('SoAR') Panel and consequently Freightliner does not have any formal feedback from panel over the areas that have not been agreed. The following section outlines Freightliner's best understanding of the issues of concern, which resulted in Network Rail not agreeing to progress this application to the SoAR Panel.

Performance

44 train slots are contained within this supplemental due to Network Rail not consistently delivering a Freight Delivery Metric average of at least 92.5% for these trains during three periods between January and March 2020. As a result, FNPO would not agree to advance these rights to SoAR Panel. These are a mixture of existing Rights being updated to reflect current paths in the timetable, and new Rights reflecting new business.

Freightliner inherited from the incumbent operator an out of date Rights table and performance challenges on commencement of this contract in November 2019. Since then, we have focussed, both internally and collaboratively with both Network Rail and other TOCs/FOCs, on improving performance across the service group. This has culminated in the development of a Joint Performance Plan, which all parties are engaged with. These efforts have resulted in significant performance improvements being made over the intervening months.

Network Rail set a threshold for advancement to SoAR Panel based on the regulatory floor of 92.5% FDM performance measure. This is of course a measure of how well Network Rail is performing rather than Freightliner's performance.

Freightliner was also informed that the data used to analyse performance had to be based on periods 11-13 of the 2019/2020 financial year – i.e. prior to the reduction of passenger train services as a result of the Covid-19 Pandemic. Freightliner does not consider it appropriate to constrain the data analysis to such historic periods for a number of reasons:

- The use of such historic data does not reflect the current performance of the traffic and discounts the collaborative efforts to deliver improvements.

- The data reflects the very start of Freightliner operating this service group as the traffic was bedding in, therefore it does not consider the strides in performance that Freightliner has made since then.

- The timetable being analysed is not representative of the current or future December 2020 timetable, on which arrival and departure windows, destinations and train characteristics included in this supplemental are based (as requested by Network Rail). Performance data is being taken from early in the December 2019 timetable - therefore, the performance data does not necessarily align with slots in the timetable or reflect timetabling optimisation that has taken place to remove identified performance issues is not taken into account.

- Performance across the service group improved significantly with the reduction of other services on the network, leading Freightliner to believe incidents outside our control were contributing to performance.

There have now been several months and periods since passenger services increased significantly, returning to a level closely reflecting that in operation prior to wholesale reductions as a result of Covid-19. As such it is Freightliner's belief that Network Rail's policy with regards to performance data is flawed and should have been revised long before this supplemental was submitted. Freightliner does not consider it a tenable and defensible position to use such out of date performance data and to refuse to refresh it to the detriment of this application.

Freightliner has engaged collaboratively with the Western Region to discuss a number of matters including ensuring that Access Rights for freight services across the Region are updated. This included a meeting between the Western Region and FOCs on the 17th June 2020. It was agreed at that meeting that freight operators should ensure that *"Rights reflect current operations, provide protection (where appropriate) for paths in future timetables by March 2021"*. Given this strong steer from the Region, it is inconsistent that FNPO will not support progressing this application due largely to the use of historic and out-of-date performance data. These mixed messages from different parts of Network Rail are unhelpful at a time when we are seeking to contractualise rights for services that will soon have been operating for 12 months.

Route Availability

9 train slots are included in this supplemental due to our application for rights showing these running with Heavy Axle Weight characteristics at RA10, thereby exercising a loading of up to 25.4 tons per axle, reflecting how these services run today.

Network Rail are only prepared to sell additional access rights for trains with RA10 characteristics until Principle Change Date (PCD) 2021 on Anglia Route, and PCD 2022 across Kent and Sussex Routes. Freightliner raised that the Priority Date for PCD 2021 would only contractualise these services up to and including the May 2021 timetable (the PDNS date for which has already passed) and therefore there was no utility or security from a timetabling perspective. A change in policy has not been forthcoming.

Maximising the loading per train is key to both the economics of rail freight and ensuring the best capacity utilisation on the network. Many terminals served by the services contained within this supplemental are in a constricted urban environment, serving the construction industry in the South East, and as such, terminal capacity is heavily constrained, with train lengths already maximised. Reducing loadings from RA10 to RA8 would reduce the weight of each wagon by almost 15%, this equating to a significantly higher percentage reduction in aggregate carried. Therefore, while apparently inconsistent across regions, Network Rail's change in stance towards Heavy Axle Weight traffic represents a significant threat to rail freight being able to compete with other modes, and will result in a requirement to run additional trains to these terminals, or drive an increase the quantity of road deliveries to these sites, with an obvious negative impact on carbon emissions in both urban areas and on road corridors between quarry and terminal.

The ability to run above the Route Availability published within the Sectional Appendix under dispensation has been an established practice for decades, and paths included in the working timetable and reflected in this Supplemental take account of any special requirements identified through these dispensations. Freightliner and Mendip Rail have invested heavily over the years in rolling stock designed to make best use of the axle loading possible over the network, thereby maximising the productivity and efficiency from each train with the expectation this will continue in the future.

Contractual certainty aligned with the operator's Track Access Contract is a must if operators and freight customers are able to plan their business with confidence and certainty, which will enable multi-million pound investments to be made. Rights for 6 months to a year, or rights that reduce productivity and capability by reducing Route Availability and Heavy Axle Weight dispensation, simply do not provide sufficient confidence for private companies to make these investments.

There are multiple existing schedules with access rights for this customer and other freight customers over the same infrastructure and same structures where Network Rail has, as recently as 2019 (referencing FLHH's 8th Supplemental) been prepared to sell access rights at RA10 through to PCD 2026. Network Rail has not raised any concern to Freightliner over maintaining those access rights as previously sold; as such Freightliner struggle to understand Network Rail's rationale.

Freightliner have requested specific details of the structures Network Rail believe limit the duration access rights can be granted for; these are provided within the email chain supplied as Appendix 1 to this application. Having reviewed this information, Freightliner has a number of specific concerns and counter arguments regarding the conclusions reached by Network Rail:

- -This Supplemental does not contain any contractual routing information relating to the TAH lines between South Tottenham and Woodgrange Park, identified as a section with

'inadequate' structures, and alternative routing between these locations is available should this be required.

- Structure BOK/71 located on the North London Line is, as per Network Rail's explanation, currently undergoing repair work with completion expected in late 2020. Network Rail's position is that they will support rights over this structure from now until December 2021, but not beyond, which appears completely counter intuitive, given that the issue Network Rail has identified is current and by Network Rail's own assessment will have been rectified by that date.
- Kent and Sussex Routes have presented a list of what appears to be all metallic underline structures traversed by the services included in this supplemental. This list includes a number of structures that have been completely renewed within the last 3 years, such as Bellenden Road and Intersection bridges on the CAT lines. Freightliner would expect any brand-new structure, installed at great expense and disruption, to satisfy the requirements of existing traffic for many years to come. Therefore, while accepting Network Rail have concerns regarding the condition of some structures on Kent and Sussex Routes, the failure to point to any specific infrastructure that cannot support RA10 beyond PCD 2022 leads Freightliner to believe that this is a general concern and continuing the ongoing maintenance and replacement program is sufficient to permit granting of these rights for the requested duration.

Network Rail's position also seems at odds with the funding settlement that it received in Periodic Review 2018. Network Rail received close to an extra £1bn of expenditure ear-marked to improve asset sustainability. The metallic structures, identified by the Southern Region as a reason not to progress these Access Rights, were specifically referenced for investment and funding in CP6. In fact the Southeast Route, in its Route Strategic Plan, said that they were *"pleased that asset sustainability has been recognised in the Final Determination and that we have received an additional £66m to address the long term decline of our track and metallic structures"*. They also confirmed that as a result of the settlement, in CP6, *"network capability will be maintained (with the exception of short term restrictions)"*.

Freightliner is concerned that despite this additional, targeted funding, which is over and above the track access charges paid by this traffic, that Network Rail will no longer support contractual capability of Heavy Axle Weight traffic over these structures. No information has been shared by Network Rail to explain why Southern Region will only support RA10 traffic to 2022 nor why rights for other Heavy Axle Weight traffic have recently been sold for other customers to 2026 without raising a concern. Furthermore, no details have been provided by the Southern Region over what needs to happen to unlock this issue and to restore

Great Eastern Mainline

5 train slots are included in this supplemental due to having paths over the Great Eastern Mainline to reach terminals in East Anglia. Freightliner have been advised a policy is in place that does not sell access rights beyond the upcoming timetable over this route owing to the ongoing Event Steering Group.

Freightliner contest that the Event Steering Group for the Great Eastern Mainline is currently 'paused' with no date having been set for timetable implementation, the original date having already slipped considerably. The services included in this supplemental have paths in the Working Timetable and as such capacity exists for this critical traffic to continue running.

Differences in the approach to the granting of passenger and freight access rights, and the need to assess each individual path on a case by case basis means that it generally takes in excess of 6 months for a freight access rights application to be approved and implemented. Therefore, a policy of

only granting rights for one timetable on a rolling basis is not practical for freight, effectively resulting in Network Rail expecting any new freight traffic on this route to run without the security of Access Rights. This will result in these services being treated at a lower priority for inclusion in any future timetabling work, which is not acceptable to Freightliner.

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

- Areas where the drafting is different to ORR's published template freight track access contract. Please explain why these departures have been made.
- 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 freight track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate).
- New processes (e.g. self-modification provisions) which have been added. Please demonstrate how these new processes are robust and complete.

There are no departures from the ORR's model freight track access contract proposed in the 10th Supplemental Agreement.

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

4.1 Benefits: Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Why do you need these new rights (if any)? Please describe any significant changes in the pattern of services and any impact on other operators, including other 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.

The Rights Table will reflect Freightliner's current operations, providing clarity to train planners, projects and strategic planning. It will provide the assurance of a stable train plan for the foreseeable future, allowing Freightliner to focus on incremental improvements to the traffic, while ensuring valuable capacity is not utilised by train slots no longer required. Full details of the proposed changes are provided in the form of an updated and 'marked up' Rights Table.

The Rights sought are to support the Mendip Rail haulage contract which was let on the basis serving existing aggregates markets, providing for growth and serving new locations. The Rights will support the movement of 9 million tonnes of construction materials to receiving terminals across the South of England. The traffic is of significant economic importance to the economy and as such has featured in all relevant Route Studies, the Freight Market Study and the Freight Route Study.

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the proposed and/or amended services (or will be at the time of service operation). Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. Please confirm whether the proposed Rights will involve operation over an area subject to a Declaration of Congested Infrastructure, or whether the capacity requirement will result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code).

All trains included in this proposed 9th Supplemental Agreement have validated paths in the December 2020 WTT.

4.3 Firm Rights: Do these Firm Rights in the proposal contract relate to service freight haulage contracts which you hold or will hold? If so, how? How does the duration of these haulage contracts compare with the duration of the proposed track access contract?

The Firm Rights being requested are required to run until the expiry date of the Freightliner Heavy Haul Track Access Contract – December 2026 (PCD 2026), in line with the Customer Contract. The one-hour windows requested for the Firm Rights are in line with the ORR directions letter of 29th February 2016.

4.4 Contingent Rights: please set out the extent to which you expect to use the Contingent Rights in the application. In particular, please state whether the proposed rights are seasonal (eg 3 months each year) or occasional (eg MO, SX, etc).

There are no Contingent Rights applicable to this proposed Supplemental Agreement.

4.5 Window size: Please set out the reasons for the origin and destination window sizes used in the Rights Table in Schedule 5.

The one-hour windows requested for the new Firm Rights are in line with the ORR directions letter of 29th February 2016. This ensures a stable train plan from one timetable to the next, allowing both Freightliner Heavy Haul and Third Parties to efficiently manage and optimise access to the network.

The majority of terminals served by services included within this supplemental are located in urban areas, as close as possible to the locations where aggregates are required by the construction industry, thus minimising onward transportation by road. However, this means that space within these terminals is extremely constrained and orders are processed on a 'just in time' basis, with a very short window between rail arrivals and the need to fulfil customer orders. One-hour windows are therefore essential to the end user, providing certainty on the time a train will arrive – without this, the customer may suffer from significant financial losses though being unable to satisfy demand, this leading to delays for the construction industry in completing projects.

Further, operations at both Whatley and Merehead Quarries require numerous shunting movements to take place to load wagon sets ready for departure. Without stable arrival times, there is potential for these sites to become heavily congested, leading to delays in loading wagons and departure times. Due to the nature of these quarries being located at the end of single-track branch lines, any delayed departure can have a knock on effect to later arrivals, as well as creating delays to other services on the mainline.

4.6 Long term planning process: please state which Route Studies are relevant and whether the proposed rights are consistent with them. If they are not consistent please give the reasons. See Network Rail's [website](#). What consideration has been given to any issues emerging from relevant Events Steering Group concerning capacity on the routes covered by the application (if Network Rail network).

The traffic is of significant economic importance to the economy and as such has featured in all relevant Route Studies on the UK rail network; including the Freight Market Study and the Freight Route Study.

5. Incentives

5.1 Train operator performance: please describe any planned projects or initiatives associated with the operation of the proposed services aimed at improving your performance (including faster or longer trains).

Since taking over the contract, Freightliner have worked on multiple initiatives, both internally and collaboratively with Network Rail to further improve the performance of these services. These are wide ranging and include the monitoring of right time departures from terminals and reliability issues of assets, as well as targeted focus on specific trains. This has led to an overall improvement in performance across the service group through 2020.

A number of services are included in this Supplemental because Network Rail did not consistently deliver a Freight Delivery Metric average of at least 92.5% for these trains during three periods between January and March 2020. As a result FNPO would not progress this application to SoAR Panel. As discussed in detail in Section 3.2 Freightliner does not feel the use such historic and out of date, covering periods immediately after the haulage contract had commenced. It fails to take account of the significant amounts of work that have been completed since then, resulting in significant performance improvements across this service group and the on-going outputs of the Joint Performance Plan. Freightliner has been advised that the SoAR panel is unable to consider any more recent performance data, despite multiple timetable changes having occurred since this date set.

Additionally , Freightliner have been proactive in establishing a need to conduct a thorough review of Timetable Planning Rules for Western Route to identify any underlying issues in the timetable construction that can be improved upon for the future, and will be working with Network Rail to establish this through the process outlined within Part D of the Network Code, as well as engaging with Network Rail through the ESG process to ensure future timetable development delivers the best possible performance outcomes.

As outlined in the Network Rail and Freightliner Joint Performance Plan, the granting of Access Rights with one-hour windows for all Mendip services is key part of improving performance. This will provide a stable train plan that which Freightliner can use as a base to further optimise and deliver improvements. Without access rights that match the train plan, there is continuing significant instability in the plan between timetables, diverting focus away from improving schedules and on to rectifying issues with timetable offers, resulting in a sub optimal outcome for all timetable participants.

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 performance.

5.3 Restrictions of Use: set out and explain the reasons for any changes from the Restrictions of Use regime in the model freight track access contract (Schedule 4).

There are no changes to the Restriction of Use regime.

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).

There are no network enhancements associated with this application, nor are any of the proposed services subject to network enhancements.

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).

Not applicable to this application.

7. Other

7.1 Associated applications to ORR: please state whether this proposal 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).

Not applicable to this application.

7.2 Unregulated access: please comment on whether any contracts are being negotiated for access to a facility adjoining Network Rail's network (e.g. to a freight light maintenance depot), including where ORR's approval is not required. For more information, see [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#). (This is relevant in the context of clause 6.4 of the model contract.)

Not applicable to this application.

7.3 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).
- 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.

Annex 1 – A fully marked up version of Schedule 5 Rights Table.

Appendix 1 – Email chain from Network Rail explaining Heavy Axle Weight position. (Note 1 train referenced – 7055 – was progressed as part of the 9th SA and is no longer relevant)

Appendix 2 – Excel document highlighting Sussex route structures of concern.

Appendix 3 – Excel document highlighting Kent route structures of concern.

7.4 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the application 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 you want us to exclude from publication.

No confidentiality exclusions are required.

8. Pre-application consultation

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

8.1 The consultation: has a pre-application consultation been carried out in line with the [Code of practice for industry consultations](#)? If yes, please:

- state who conducted the consultation;
- list all train operators 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.

Consultation was carried out by Simon Bennett (Network Rail Customer Relationship Executive for Freightliner Group) on behalf of FLHH. This was consulted on 4th November 2020 and with a window for responses of 1 calendar month, closing on 4th December 2020. This was consulted with all potentially impacted stakeholders, using the standard Network Rail consultation distribution list.

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.

Great Western Railway (GWR) raised two concerns during the consultation. One related to a typing error in section 4.2 of this form, which was resolved when confirmed this should read '10th' not '9th'. The second query was related to Network Rail's lack of support for this application, to which GWR confirmed they had no concerns with the items raised in response. This correspondence is included as Appendix 4 to this application.

CrossCountry confirmed they had no issues with this application. This correspondence is included as Appendix 5 to this application.

No other responses were received as a result of the consultation.

8.3 Unresolved issues: please set out any issues raised by consultees which have **not** been resolved to the consultee's satisfaction, 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.

No issues were raised that could not be resolved.

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

In the case of agreed applications under section 18 or 22, the facility owner should fill in the information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

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

Signed Date...07/12/2020.....

Name (in caps) ...CHRIS MATTHEWS.. Job title ..TRACK ACCESS MANAGER...

For (company)FREIGHTLINER HEAVY HAUL LIMITED.....

For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here:

Signed Date.....

Name (in caps) Job title

For (company)

10. Submission

10.1 What to send: please supply, in hard copy or electronic format, 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.

10.2 Where to send it:

Freight Track Access Manager
Access and Licensing Team
Directorate of Railway Markets and Economics
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

Email: track.access@orr.gsi.gov.uk