



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):

GB Railfreight Limited 17th 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 Limited.	Company: GB Railfreight Limited.
Contact individual: Robert Williamson.	Contact individual: Ian Kapur.
Job title: Customer Relationship Executive.	Job title: Head of Strategic Access Planning.
Telephone number: [redacted]	Telephone number: [redacted]
E-mail address: [redacted]	E-mail address: [redacted]
Address: 6 th Floor, One Eversholt Street, London, NW1 2DN.	Address: 3 rd Floor, 55 Old Broad Street, London, EC2M 1RX.

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

GB Railfreight (GBRf) intends to operate the services itself.

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 *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).

GB Railfreight (GBRf) holds a valid operating licence under Section 8 of the Railways Acts 1993. GBRf also holds safety certificates, Part A and Part B, under Regulation 7 of 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, 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: As soon as this supplemental is approved.

Expiry date: December 2026 (PCD 2026).

GB Railfreight is an expanding freight operating company. Having grown by 28.1% between 2018 and 2019, it has also continued growing throughout 2021. Overall growth in the aggregates sector continues to be strong for the company and latest ORR figures show that construction rail traffic has now reached new record levels.

Over the last two years, GB Railfreight has introduced several new aggregates and building materials services throughout the UK. This is in line with the updated Freight Market Study forecasts and other Long-Term Planning documents that predict continued and steady growth in this sector for many years to come.

To cater for this and even more growth, GB Railfreight is continuing its investment even further, from 2020 onwards, in both infrastructure and rolling stock. Three additional Class 66 locomotives have been bought from Sweden, modified, and are now available for traffic. There are also 10 new "Class 69" locomotives being built and joining the GBRf fleet in early 2021, with more now due in 2022. These, alone, represent many £millions and will help us to move more traffic by rail and improve our performance on the network.

In addition, GBRf ordered more new wagons which became available for use during 2020 and, coupled with the locomotive investment, represent a multi-million pound investment by GBRf in expanding moving goods by rail. Further new wagon builds are also due in 2022 along with many more traincrew.

These assets allow GB Railfreight to play a vital role in ensuring the continuation of supplies around the UK, in large volumes, and increase its role in decarbonising UK transport.

The Department for Transport's recent policy paper, *Decarbonising Transport*, states that rail is already one of the most carbon-efficient forms of moving goods over long distances and, where permitted with space on the Network, is improving its environmental performance even further.

Hanson Cement is heavily investing in the upgrade of its Padeswood Cement Works at Penyffordd, in Wales. A £24 million investment programme helps to secure the long-term future of this cement works, with new and improved equipment increasing the productivity of the plant to 650,000 tonnes of cement per year.

As part of this investment, three new rail cement silos have been built alongside the existing railhead permitting new flows of railborne cement traffic to commence. In recent years, in-coming coal flows had used rail but the last cement traffic to leave Padeswood was in 1990 so the investment in the plant permits new tonnages to leave by rail for the first time in over 30 years and significantly reduce the transportation of cement by road in the local area and beyond.

GB Railfreight has introduced these new-to-rail services out of Padeswood Works, from September 2019, with the number of services increasing over the period through to June 2020. Further services are planned from the works and Network Rail Wales Route also has an access enhancement scheme for the cement works in the pipeline. Indeed, this is vital in the ability for the route to support an additional passenger train per hour while balancing the network requirements for freight traffic.

GB Railfreight is seeking 3 new firm rights for traffic between the Hanson Cement Works at Padeswood (Penyffordd) and its Avonmouth terminal.

The changes, as shown in the attached Schedule 5 Rights Table extract, are being proposed to facilitate and protect GB Railfreight's long-term legitimate business and investments, described above, whilst maintaining a reasonable balance of flex for operational practicability on the whole of the network.

The commercial contract in question extends through to the end of 2026, tying in with the current expiry date of this contract. No material safety risks have been identified as arising from this application.

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.

The rights in this proposed 17th Supplemental were originally submitted to Network Rail, for its internal consultation, with other proposed rights on 23rd June 2020.

After some initial enquires on some minor points, Network Rail finally let it be known to GBRf on 14th September 2020 that, arising from its SoAR Panel meeting on that day, it would only support firm rights for these four services *“up until December 2021 (PCD 2021) where they will be reviewed in line with the Wales ESG specifically relating to the Wales & Border Rail service commitment to deliver two trains per hour Wrexham – Bidston in December 2021”* (see Appendix B – e-mail from Network Rail).

It is of interest to this application that the Draft Calendar of Events Listing (Appendix D) stated major change for Wales & Borders services from December 2022 (not December 2021) although the detail mentioned in the Calendar of Events does not actually specify additional Wrexham-Bidston services, yet it does almost all other service groups.

GB Railfreight made this point clear to Network Rail in an e-mail on the same day (14th September 2020) and asked its Network Rail Customer Support Manager to ask SoAR Panel to reconsider. On 23rd September 2020 and again on 30th September 2020, Network Rail confirmed it would only support firm rights until PCD 2021. However, confirmed, validated train slots have been offered to GBRf in the current December 2021 and also the May 2022 Working Timetables, in line with these proposed firm rights. GB Railfreight therefore wishes ORR to consider this application for firm rights up to December 2026, the length of this current track access contract.

GB Railfreight is clear that this early ESG work is just one consideration to be taken into account when ORR scrutinises this application - one out and back new-to-rail freight service three times a week.

On the subject of two passenger trains per hour between Wrexham and Bidston, GB Railfreight’s conversations with Network Rail (Wales Route) and Transport for Wales go back to March 2019 (see Appendix C). In August 2019, early GRIP 1 conclusions for an enhancement scheme for this line were:

- Existing infrastructure on the line does not support the service aspiration of 2tph passenger service (serving all stations) and 1tph freight service.
- The main intervention required to improve capacity on the Wrexham to Bidston line is additional intermediate block signals in each direction at Cefn-y-bed, and between Hawarden and Buckley.
- To allow for an even interval half hourly passenger service an intervention is also required at Penyffordd Cement Works.
- Works to reduce the time freight trains take to enter the sidings, reducing time spent on the Wrexham to Bidston line.

- Opportunities to increase line speeds exist across the line which would improve performance and network capacity.

Having already had some discussions with Network Rail Future Services Integration Team, it is GB Railfreight's view that two passenger trains/hour of any calling pattern, with a slot for one freight train per hour serving the freight facilities at Penyffordd Cement Works and Dee Marsh/Shotton Steelworks, do not fit in with the current infrastructure and that the enhanced entry into Penyffordd Cement Works needs to be completed before the regular 2tph passenger services be granted firm rights.

The current slots at Padeswood Cement Works (Penyffordd) and Avonmouth are, broadly, fixed in both the specified arrival and departure windows as the Avonmouth terminal is heavily used through the day and the Penyffordd loading window (and therefore departure time) is in line with the transit time to Avonmouth.

Hanson Cement has invested heavily in re-activating Padeswood Cement Works, with new-to-rail cement services having already commenced, and the danger of stranded investments for them is very real should firm rights not be obtained for these new services. There is also a Hanson expectation for more cement services to run in the future, given its investment, hence an hourly freight opportunity would seem to be a reasonable outcome.

The presence of the cement trains, described in the proposed firm rights and without any infrastructure upgrades, does not prevent two Wrexham-Bidston passenger trains per hour from operating for much of the week. It does prevent this happening in certain early evening time bands and once on a Sunday afternoon (14:00-15:00).

GB Railfreight wishes ORR to carefully consider the firm rights application for this new out-and-back cement service (three times a week) against the desired enhanced passenger service.

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.

No departures from the model freight track access contract.

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.

GB Railfreight is proposing to apply for 3 new firm rights as per the detail set out in ORR's track access contract guidance modules which supports having a clear and transparent rights application process.

The 3 new rights being sought are all with 60 minutes windows and a full description of the new rights can be found in Appendix A, a rights table purely showing the three new rights being sought.

The proposed rights are for freight services in compliant train slots in the current December 2021 and also the May 2022 Working Timetables.

For running off the Network on to private infrastructure, there are defined requirements in Section 6.4.1 of the model Track Access Contract (Freight Services). GB Railfreight has, therefore, agreed specified timings at both the cement works and other terminals and sidings.

Some of the listed, off-network, locations have multiple rail operators using the facilities and, therefore, an interlinked daily loading and unloading plan must be adhered to for these inter-connected trains. These freight terminal plans, all over the country, is what drives GB Railfreight to require a maximum limit of 60 minutes windows in this rights application.

When multiplied by the number of services run by several freight operating companies, it is clear that a limit on total flexibility is needed for services to run in a robust manner. As detailed below, GB Railfreight believes the 60 minutes flexing window is an appropriate and measured window.

Without the level of specificity that the proposed firm rights offer, a change to one particular service, greater than within the 60 minutes window, will lead to required changes for all other freight services using specific terminals. Re-timings of all services could lead to considerable change to the timetable, nationally, as alterations could ripple far and wide. In addition, the use of specified robust and little-changing time slots, at off-network locations, can only be good for performance on the network.

GB Railfreight already has agreed contracted facilities access with DB Cargo (UK) Ltd. at Dee Marsh Sidings to facilitate the running of services departing Penyffordd then heading southward.

In the fully marked up version of the Schedule 5 Rights Table (Appendix A), the 60 minutes of requested flex, for each of the arrival and departure windows, initially gives Network Rail two hours-worth of available flexing. This, immediately, is a generous flex and gives a reasonable balance between giving Network Rail flexibility to create new timetables and not destroying GBRf's service patterns and its asset base.

On top of the proposed two 60 minutes flexing windows, and despite optimisation work, the vast majority of GB Railfreight's schedules still contain an amount of pathing time, as they follow other slower stopping services and also time spent in loops for other passenger trains to pass.

These pathing and looping times are already built into the schedules and offer yet more flexibility if everyone's current flexing rights are used as necessary. In addition to all the above, yet more flexing is currently available to capacity planners.

Under Condition 10 of Part J of the Network Code, Network Rail is able to give notice of a proposed Access Right Change if it reasonably believes this will achieve better use of the Network and also that the positive impact of the change was not reasonably foreseeable when the relevant Firm Right took effect.

This condition is already in place and gives Network Rail its flexibility, were the current Part D and J conditions not to be suitable for Network Rail to create a "better" timetable.

It is for these reasons that GB Railfreight believes that 60 minute windows is the right balance and that it doesn't believe there is any effect on other freight operators.

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).

The 3 rights sought in the proposed supplemental agreement have WTT paths offered in the current December 2021 and also the May 2022 timetables. They take into account the Operating Constraints, consisting of the Engineering Access Statement detailing possession opportunities for the Infrastructure Maintainer, the Timetable Planning Rules, also the Working Timetable and associated Sectional Appendices to ensure trains run within the capability of the Network.

In offering validated paths, Network Rail will have satisfied itself that the slots are fully Timetable Planning Rules compliant and that appropriate use has been made of available capacity taking into account the Decision Criteria.

The slots are in currently recognised freight pathways (as the timetable is currently constructed) and therefore capacity does exist for these services.

Sufficient network capacity, and also pre-agreed off-network capacity, has been found without any infrastructure enhancements currently being required.

GB Railfreight believes that to grant firm rights at these specific time windows would be the appropriate balance for ORR in discharging its statutory duties under Section 4 of the Act. The following duties are very relevant to the granting of firm access rights:

- Section 4(1)(a) – to protect the interests of users of railway services
- Section 4(1)(b) – to promote the use of the railway network in Great Britain for the carriage of goods
- Section 4(1)(ba) – to contribute to the development of an integrated system of transport of goods
- Section 4(1)(c) – to promote efficiency and economy on the part of persons providing railway services
- Section 4(1)(g) – to enable persons providing railway services to plan their businesses with a reasonable degree of assurance

This application for firm rights has been made as per the process set out in ORR's track access contract guidance modules.

Combined with Network Rail's Network Licence conditions, GB Railfreight believes all is in place for ORR to approve these proposed new rights so that GB Railfreight can plan its legitimate business in a timely, efficient and economical matter so as to satisfy its reasonable requirements in providing services with a reasonable degree of certainty.

The timings for the train slots are also specified and agreed with DB Cargo (UK) Ltd. with entering and leaving its leased infrastructure at Dee Marsh Sidings in Wales.

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 proposed Freight Access Rights, with 60 minutes windows at each end, are to support new to rail and on-going cement services used for the building of the new

Hinkley Point nuclear power station. This is a “just-in-time” rail service that keep this huge building production line going. These services require clearly defined arrival and departure times between the cement works and terminal slots at each end of the route.

Tightly defined train slots (60 minutes windows) also help to ensure that the very large investment in infrastructure and newly-built locomotives and wagons are used to their maximum and that there are no stranded investments over the course of their 30 years life for either GBRf or 3rd party investments from Hanson Cement. This is also paramount to both delivery of product and on-going network performance.

The contract for this flow that extends through to the end of 2026 tying in with the current expiry date of this contract.

Approving these rights for the full period of GBRf’s track access contract gives GBRf and its customers the confidence to service their contracts, some of which are beyond the length of this contract and also to confidently renegotiate said contracts, when due, on an equal basis with other freight operators.

It is also worth noting that the long-term need for these traffics extends beyond any existing freight haulier track access contract expiry date.

When any of the Freight Access Rights are no longer required during the course of this contract, there are two processes that currently cater for changes to be made to GBRf’s track access contract and, therefore, the removal of rights and train slots on a regular basis:

Condition J9 – The Rights Review Meeting: This states that Network Rail shall hold Rights Review Meetings with operators as frequently as necessary in order for it to ensure that capacity on the network is shared in the most efficient and economical manner in the overall interests of users, providers, potential providers and funders of railway services.

This condition exists now and should be the main driver of always ensuring maximum capacity. In essence, this application is exactly the result of such a review.

Capacity Management Review Group: This is the joint Freight Operating Companies & Network Rail capacity working group, having started on 9th April 2014 as a result of the CP5 Freight Access Charges determination.

Its purpose is to review and amend current and future rail freight paths based on a “usefulness” and “reasonableness” test. After discussion, GB Railfreight train slots are either removed from the timetable or turned into strategic capacity.

From 9th April 2014 up to the current date, 5974 paths have been given up by FOCs, with 4604 paths have been completely removed from the working timetable and 1370 paths retained as strategic capacity.

This system is the correct way forward and strikes the right balance between removal of unused rights & paths and keeping relevant and useful paths for strategic capacity and future freight use.

The Capacity Management Review Group convenes every three months to ensure reasoned and proportioned industry decisions are made. These two mechanisms are how any rights that are not being exercised are removed from GB Railfreight's long-term track access contract.

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 (e.g. 3 months each year) or occasional (eg MO, SX, etc).

There are no contingent rights in this application.

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

As stated in paragraph 76 of ORR's "*Directions in respect of a track access contract between Network Rail Infrastructure Limited and GB Railfreight Limited*" document, dated 29th February 2016, ORR expects the default position for window size of freight Firm Rights, backed by commercial contracts with end users, to effectively be one hour windows.

One-hour windows will preserve each of GBRf's end-users' confidence in its ability to provide the train services and timings they need, and enables GBRf to plan the future of its business with a reasonable degree of assurance.

In addition, GBRf believes that the detailed explanations given in Sections 4.1 – 4.3 articulate the reasoning why a 60 minute window is fair and reasonable for GBRf in managing its business with a reasonable degree of certainty.

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 Event Steering Groups concerning capacity on the routes covered by the application (if Network Rail network).

This application is consistent with all established Route Studies on the UK Rail network. Additionally, the *Long Term Planning Process: Freight Market Study*, established in December 2013, and its updated scenario forecast figures to 2033/34 &

2043/44, published by MDS Transmodal in 2019, have stated that, overall, rail freight is expected to continue to strongly grow, with construction materials one of the stronger growth sectors.

Additionally, Wales Route is proposing an enhanced freight connection scheme at Penyffordd, which will provide additional infrastructure to facilitate easier terminal access, greater route capacity whilst still accommodating freight, performance improvements and big journey time savings for this reactivated traffic from Padeswood Cement Works. This, in turn, releases more capacity for enhanced passenger services along the Wrexham to Bidston route.

The Wales & Borders Event Steering Group (ESG) was established, working options for a general Wales & Borders Timetable Change in December 2022. The Calendar of Events states major change for Wales & Borders services from this point although the detail mentioned in the Calendar does not specify additional Wrexham-Bidston services, yet it does almost all other services.

However, the latest Calendar of Events, as at 25/11/21 (see Appendix E), shows Wales & Borders Timetable Change as taking place in December 2023.

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).

Contained in the agreements between GB Railfreight and its customers are new and altered performance regimes which include right time arrivals and departures as KPIs with financial penalty. GBRf's twelve Operations Managers are now responsible, and directly accountable, for right-time departures (and arrivals) for the terminals served by GBRf services.

The use of i-Pad is being used for remote condition monitoring, mainly for levels of fuel, sand, brake blocks and coolant with a view to reducing main line failures and delays. This is a novel way to anticipate faults before they occur and using technology to help improvement performance over all routes. Additionally, in recent months, more "intelligent" remote data downloading has come into use of GBRf's Class 66 locomotives.

All of GBRf's train lists are now produced using mobile-consisting technology, leading to fewer delays due to paperwork issues. The aim of all of these is to realise a better operational plan and to deliver more robust freight performance throughout the network. They also help to provide more accurate Sectional Running Times and offer an increased level of clarity for unexplained delays.

In addition to the above, performance regime briefs are regularly given to all GBRf staff, including drivers, ground staff and controllers and all new performance incentives have been introduced with GB Railfreight's locomotive and wagon maintenance suppliers.

All of these will help improve network performance for a large percentage of trains that GB Railfreight runs.

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.

No planned projects for services in this application.

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 Restrictions 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).

Although no network enhancements have yet been formally linked with this application, it is GB Railfreight's view that an enhancement of the Network at Penyffordd, giving far easier access into Padeswood Cement Works, is needed to provide sufficient network capacity for a desired twice-hourly passenger service to exist alongside the existing freight services. E-mail correspondence in Appendix C, describing the GRIP 1 conclusions to date, appear to corroborate this view.

All the Firm Rights in this application have associated train slots already offered to GB Railfreight in the December 2021 and May 2022 Timetables.

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 relevant 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).

Although there are no other GB Railfreight applications being made that interact with this 17th Supplemental, there is the open Transport for Wales Rail (TfWR) Section 22A 4th Supplemental Agreement application seeking 2 passenger trains per hour between Wrexham and Bidston, in competition with this GBRf rights application. The TfWR Section 22A 4th Supplemental application was made on 21st July 2021. It is possible that there may be a further revised Section 22A TfWR rights application for enhanced passenger services for a date to be determined. Currently, though, GBRf believes that the second Wrexham-Bidston services each hour have been rejected by Network Rail for the May 2022 Timetable.

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 relevant 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.

Appendix A: A marked up segment of the Schedule 5 rights table showing the 3 newly proposed firm rights.

Appendix B: E-mail correspondence between Network Rail (Customer Support Manager) and GB Railfreight regarding the level of support for firm rights.

Appendix C: E-mail correspondence between GB Railfreight, Network Rail (Wales Route) and Transport for Wales from March 2019.

Appendix D: Draft Calendar of Events for Dec '21 Timetable, as at August 2020 when the original supplemental submission was made.

Appendix E: Live Calendar of Events as at 25th November 2021.

Appendix F: Transport Focus Consultation Response.

Appendix G: GWR Consultation Response.

Appendix H: Liverpool City Region Consultation Response.

Appendix I: Cross Country Trains Consultation Response.

Appendix J: Transport for Wales Rail (TfWR) Consultation Response.

Appendix K: Department for Transport Consultation Response. (continued)....

Appendix L: GBRf's response to TfWR's Wrexham-Bidston Track Access Rights (Section 22A) application made on 21/7/21, and TfWR's Further Response made on 23rd November 2021.

Appendices A to D went out with the external consultation of this supplemental.

Appendix E (Live Calendar of Events as at 25/11/21) newly attached to this Section 22A submission.

Appendices F-K are consultation responses to this proposed supplemental.

Appendix L is the latest correspondence between Transport for Wales Rail and GB Railfreight Ltd. on each of our Section 22A applications for firm rights.

GB Railfreight (GBRf) can confirm that the whole of the proposal has been submitted within this application and that there are no other letters or documents that GBRf has knowledge of which may affect this application.

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 necessary.

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.

The following consultees have had the full 28 days consultation period, which has taken place from 5th October 2020 to 5th November 2020:

Greater Anglia; ScotRail; Transport Scotland; Arriva Rail London; Arriva Rail North; East Midlands Trains; Great Western Railway; South Western Railway; First Trans-Pennine Express; Govia Thameslink Railway; Transport for Wales Rail; South Eastern Railway; LNER; Merseyrail; Transport for London; MTR Crossrail; Serco; Chiltern Railways; c2c Rail; Virgin Trains; West Midlands Trains; Cross-Country Trains; Chinnor Railway; First Group Rail; Eurostar; Ffestiniog & Welsh Highland Railway; Grand Central; Heathrow; Heathrow Express; Hull Trains; Nexus; North Yorkshire Moors Railway; Peak Rail; Supertram; West Coast Railway Co.; Alliance Rail; Go-Op; Pre-Metro; First Class Partnerships; Direct Rail Services; Locomotive Services Ltd.; DB Cargo; Rail Operations Group; Vintage Trains; Colas Rail; Devon & Cornwall Railways; Freightliner Ltd; Freightliner Heavy Haul; Harsco Rail; Loram; Victa Railfreight; High Speed One Ltd; Hutchison Ports (UK) Ltd.; Maritime Transport; MDS Transmodal; London Travelwatch; Transport for Greater Manchester; Merseytravel; South Yorkshire PTE; Centro; West Yorkshire Combined Authority; Department for Transport; Office of Rail & Road; Rail Freight Group; Network Rail; Passenger Focus; Welsh Government.

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.

GWR: Great Western Railway raised a point that it would like the [MO] and [WFO] northbound paths (and therefore access rights) for 6M42 to be standardised. Work had already been carried out on this and GBRf responded that the two rights had indeed been standardised, with the same train slot over all three days, making a better use of network capacity. GBRf believes this point is now resolved. **See Appendix G.**

Cross Country Trains: Cross Country Trains had a concern about TPR compliance for 6M42 [WFO] at Bristol Parkway and also with some services running that were not in this particular rights table, they having been dealt with in the 14th Supplemental. GBRf stated that these are rights applications with arrival/departure windows and not detailed train path consultations, which are covered by Part D of the Network Code. Notwithstanding this, GBRf stated that a 60 minutes operational stop (OP) at Gloucester could be removed, leading to far more flexibility of the schedule between the Bristol/Avonmouth area and Birmingham. Both GBRf and Network Rail believe these points have been resolved. **See Appendix I.**

Liverpool City Region: David Jones at Liverpool City Region raised a concern about the enhanced Wrexham to Bidston passenger service to 2 trains/hour.

After GBRf's response, Liverpool City Region noted and appreciated the fact that GBRf was working closely with TfWR to minimise the impact. Both GBRf and Network Rail believe there are no outstanding points from this response that will not be covered in the "Unresolved Issues" section with TfWR. **See Appendix H.**

Department for Transport: The DfT had an enquiry concerning running these freight trains on the busy bottleneck through Wolverhampton to Birmingham. GBRf responded stating that the service does not go along that busy corridor but runs via Bescot and the Sutton Park freight-only route, skirting around the central Birmingham area. GBRf also stated that the services have been running regularly over the last year and that there are no underlying performance issues for either of the services shown in the Schedule 5 rights table. The DfT had no further queries and both Network Rail and GBRf believe this query has been closed. **See Appendix K.**

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.

Transport for Wales Rail (TfWR): From the beginning of this particular application, TfWR has had concerns as to how GBRf's proposed firm rights might sit alongside the Transport for Wales aspiration for the doubling of the Wrexham to Bidston service to two passenger services each way per hour. **Appendix J** contains TfWR's detailed response to GBRf's Section 22A application.

At the heart of the conflict between GBRf's application and what was a Transport for Wales aspiration at the time, is TfWR's desire for GBRf's 6V41 17:08 [TThO] Penyffordd Cement Works – Avonmouth and also 6M42 09:20 [WFO] Avonmouth – Penyffordd Cement Works services to move outside their current terminal slot, departure time and proposed firm right window to permit a second passenger service to run in that particular hour between Wrexham and Bidston.

To do that, for what is currently one freight train movement a day, out of an upgraded and already heavily invested Penyffordd Cement Works, would mean GBRf re-timing these cement trains approximately 2 hours later and running via a completely different route. This would necessitate at least 10 of GBRf's Bristol traincrew to learn 94 miles of new route along the Shrewsbury-Hereford-Newport (Maindee) and back.

Even if this change of route were an absolute necessity, GBRf would not have the opportunity or ability to release these traincrew to learn 188 miles of new route and also back-cover their booked turns with other drivers whilst the training were taking place. This and other finer details of the current GBRf operation are covered in Ian Kapur's response to TfWR (dated 24/8/21) as part of **Appendix L.** That e-mail states why what is being proposed by TfWR as a solution is not workable for GB Railfreight.

GB Railfreight wants it to be known that it is in no way against TfWR increasing its passenger services to two trains/hour over the Wrexham to Bidston route, per se, however if that is going to be done on the current Network infrastructure and not with the network enhancements that have been discussed and mentioned in this application (**Appendix C**, for example), the current freight operations (including terminal slots at each end) need to be taken into account.

Indeed, with Hanson Cement's recent £24 million investment securing the long-term future of Padeswood (Penyffordd) Cement Works, there is a desire and requirement for more cement services to use this now favoured UK cement plant.

Importantly, though, the balance of passenger and freight operations along the Wrexham-Bidston route is not just about current GBRf operations but also current DB Cargo steel services to/from Shotton Steelworks, entering at Dee Marsh Sidings, north of Penyffordd, and future demand for freight services at these installations.

With the Government's carbon net-zero legal requirements in force, the strategic importance of rail freight services across the UK now recognised, and the real chance of modal shift taking place,

GB Railfreight believes the correct solution here is to enhance the infrastructure between Wrexham and Bidston, particularly the entrance/exiting arrangements at Padeswood (Penyffordd) Cement Works, before the doubling of the passenger services takes place.

At the very least, current valuable and strategically important freight operations should not be jeopardised.

GB Railfreight and TfWR have been in amicable conversations over our supplementals on a number of occasions during 2021 and each party fully understands the other's issues however GBRf sees the competing aspirations (at least in certain hours of the day) as diametrically opposed with no easy way forward in terms of each other's priorities.

GB Railfreight wishes ORR to carefully consider the firm rights application for this currently operating out-and-back cement service (three times a week) against the desired enhanced passenger service and a lack of the additional offered passenger services between Wrexham and Bidston for the May 2022 Timetable.

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.....

Name (in caps) Job title

For (company)

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): IAN KAPUR Job title: Head of Strategic Access
Planning

For (company): GB Railfreight Limited.

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