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APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity.

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.

The form sets out ORR's standard information requirements for considering applications. Our <u>track access guidance</u> (and our <u>making an application</u> guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry code of practice for track access application consultations for more information.

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 8. 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.

We are happy to talk to you informally before you apply. Please contact us at Track.Access@orr.gov.uk. You should use our current model freight track access contract as your starting point. Please ensure that you are using the latest version of this form as published on our website. We may ask for applications which have not used the latest templates to be resubmitted.

You may also use and adapt this form if necessary 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 <u>website</u>.

1. Application Summar	у					
1.1 Facility owner:	1: 11	/ () 1 1	I D ''''			
Network Rail Infrastruct	ure Limited (("Netw	ork Rail")			
1.2 Beneficiary Company:						
DB Cargo (UK) Ltd ("DE	3 Cargo")					
1.3 With which of the region	ns does this a	nnlicati	on interact?	•		
	Eastern		West &		/ales &	Scotland's
	\boxtimes	Centra	al	W	/estern	Railway
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1.4 Application under the R	ailways Act 19	993 sec	tion:			
17 □ 18 □	22	[22A	\boxtimes
	Suppleme				72A	
	Current co				11 December 2	2026
	Current co	ontract e	xpiry date:		PCD 2026	
1.5 Executive summary of t	he proposed o	contrac	t or amendn	ner	nt: (Brief & High	n Level)
The Rights Table in Schedu 2016 between the Parties ("I 1,-2, 4-5), 1603 (flows 1-2, 4 be consistent with the May 2	the Contract") s 4-6) with the de	shall be etails lis	amended by	up	dating Service G	Froups 1224 (flows
Proposed commencement d	ate:		Date of ORF	₹'s	approval	
Expiry date:			PCD 2026			
Date Approved at SOAR					ect to 19/062023 e all been receive	outstanding sign
If rights currently running as they commence?	TOVRs when o	did				
1.6 Industry consultation:						
Who carried out the consulta	ation?					
Consultation start date:			Consultation	ı er	nd date:	
Not carried out ⊠						
1.7 Applicant details	_				_	
Network Rail Infrastructure L	imited ("Netwo	ork	DB Cargo (l	JK)	Ltd ("DB Cargo	")
Rail")			0 1 1 1		alexander Occupation 11	La al al a ada a
Contact in dividual, Julia C	\				dual: Quentin H	•
Contact individual: Jules G				-	ılatory Specialist	
Job title: Customer Relation Telephone number:	isnip Executive)	Telephone E-mail addr			
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London			South Yorks	shir	e	
SE1 8SW			DN4 5PN			

1.8 Date of application to ORR: 20th May 2024

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3. The proposed contract or amendment

3.1 Application overview: Please detail 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).

Pathing is challenging in and out of the Peak district. Fluctuations affect capacity and commercial competitiveness of rail.

This paper will outline a commercial justification for one-hour window rights on freight traffic hauled by DB Cargo UK Limited (DBC) for;

- Breedon: Dowlow to Ashburys
- Breedon: Dowlow to Walsall
- Breedon: Dowlow to Heck
- Breedon: Dowlow to Boston Sleaford
- Breedon: Dowlow to Ely
- Breedon: Dowlow to Chesterton
- Breedon: Dowlow to Norwich
- Breedon: Dowlow to Snetterton
- Cemex: Peak Forest to Attercliffe
- Cemex: Peak Forest to Brandon
- Cemex: Peak Forest to Barking
- Cemex: Peak Forest to Dallam
- Cemex: Peak Forest to Luton
- Cemex: Peak Forest to Norwich
- Tata Chemicals: Tunstead to Lostock

CUSTOMER AND MARKET

Breedon

Breedon Group, HQ in Leicestershire is a leading construction materials group. Founded in 1996 as Ennstone plc, they serve over 300 locations. They operate two cement plants and around 80 quarries, 40 asphalt plants, 170 ready-mixed concrete plants, 9 concrete and clay products plants, 4 contracting services businesses, 6 import/export terminals and 2 slate production facilities.

Divisions: Breedon Southern, Breedon Northern, Breedon Cement, Whitemountain (NI) & Lagan (ROI)

Breedon purchased Hope Construction in 2017 as part of their expansion plans. Provision of costeffective rail delivered aggregate material from their Breedon Southern division, Dowlow Quarry, Derbyshire is key to supplying their other aggregate plants across the UK.

DBC are the incumbent FOC for all aggregates traffic from Dowlow Quarry. Financial penalties apply for cancelled services by DB - 80% of train charge. Due to customer capacity constraints within Dowlow and wagon set efficiency, all train slots need to be protected to avoid delays to the Cricklewood flow and other locations consequently.

DB have invested in dedicated locomotives, drivers and groundstaff to operate the Breedon business. DB have also invested in 3 dedicated wagon box sets to operate from Dowlow Quarry.

Breedon have invested in a fuel efficient multi-million-pound fleet within Dowlow Quarry (crushers/excavators/wheeled loaders etc to meet production needs now and in the future).

Cemex

In the UK, CEMEX generates around £775 million in annual sales. In addition to ready mixed concrete, cement and aggregates they also supply and install asphalt materials, manufacture concrete block pavings, bespoke pre-cast and concrete blocks. The company operates a comprehensive national supply network to ensure that quality materials and services are available to customers locally and their reputation for reliability and unrivalled technical expertise has been built up over 80 years serving the UK construction industry.

Version: March 2024

With 63 quarries and a fleet of modern vessels supplying marine aggregates, CEMEX is a major provider of crushed rock, sand and gravel for a wide range of construction applications.

CEMEX fosters long-term customer relationships by providing reliable, high-quality service and consistent product quality. Their rail supply chain is paramount to providing a reliable, cost effective and sustainable product to its customers.

CEMEX is contributing to the development of a low carbon economy and helping to address climate change by focusing on transport of aggregate by rail rather than road.

CEMEX is a market leader in the supply of limestone aggregates with their largest quarry being situated in the Peak District. Dove Holes quarry has been providing limestone for construction projects nationwide for over 160 years. Approximately 60% of Dove Holes aggregate is delivered by Rail. Production has increased to over 1 million tonnes per year with DB Cargo transporting over 920.000 tonnes in 2022.

The investment in wagons and resources for these flows coupled with the one hour 'Windows' provides the stability to allow DB Cargo & CEMEX to plan their resources as efficiently as possible, with a degree of certainty.

Failure of DB Cargo to perform and meet its contracted obligations may result in DB Cargo having to compensate Cemex, i.e. pay for any movement of product by road; Cancellation penalties (up to 50% of train charge). In addition, 50% of the annual Contract Price variation is linked to the Supplier's performance.

Tata Chemicals

Tata Chemicals Europe (TCE) is one of Europe's leading producers of sodium carbonate, salt and sodium bicarbonate and other products, from plants in Cheshire, UK. DB Cargo UK are a key component in the supply chain conveying chemical limestone (40-90mm) between Tunstead and Lostock.

Tata Chemicals is the UK's only manufacturer of soda ash and sodium bicarbonate. Their high-quality soda ash is used in the manufacture of glass, detergents and chemicals and in several other industrial applications. The many grades of sodium bicarbonate Tata produce have applications ranging from haemodialysis and pharmaceuticals, food and animal feed, flue gas treatments through to detergents and personal care products.

LOCATIONAL DEVELOPMENT

Dowlow

DB Cargo UK and Breedon are working together to increase traffic out of Dowlow and the current train slots support the customer's aspirations. Any alterations could place at risk new business or growth.

From May 2022, DB have conveyed just under 1 million tonnes of material from Dowlow Quarry to several locations throughout UK.

Dowlow Quarry has been in operation since 1899. The site covers approximately 90 hectares. The stone extracted is a carboniferous limestone over 180 million years old. The site has permissions to extract until 2046. While some materials that leave Dowlow go by road, the majority is taken out by rail to destinations throughout the UK. Current destinations are Ashburys, Walsall, Heck, Boston Sleaford, Ely, Chesterton, Norwich and Snetterton.

Breedon staff manage the operations within Dowlow Quarry and have limited storage and loading space available. DB present wagons as requested by Breedon and need to adhere to tight loading windows. In addition, due to limited train slots from the Peak region, the efficient deployment of wagons and various constraints of receiving terminals results in the operation running to a right time policy.

At Ashburys there is a restricted loading window of 07:00 to 19:00 to reduce noise and environmental impact on the local area.

Dove Holes

Key despatch terminal that supplies all CEMEX UK Rail Depots. Project ongoing to invest millions over the next few years to improve efficiency and grow volume. More than 2.5 MT per year despatched 24/7 operation.

The current capacity in and out of Dove Holes means that almost all traffic operated by DBC involves some overnight driver requirements. DB Cargo's Health and safety fatigue diagramming rules means that there are restrictions how long a driver can work for on a night shift, meaning one hour "window" rights are required to protect the current train slots.

Any change to the current train slots could potentially increase the amount of driver resource required which could potentially be the difference between a profitable service and a non-profitable service.

A stable train plan is seen as beneficial to improving performance which is a key KPI for CEMEX and DB Cargo and this may become vulnerable if timings associated with this train plan are altered significantly from one timetable to the next.

Luton

Significant investment to provide a new depot to supply the Northern Home Counties. Ongoing development of the site with intended added value operations.

Day Time trains, noise restrictions prevent offloading before 8am (9am on Saturdays). Current paths require overnight driver requirements and therefore limited by fatigue diagramming rules.

Barking

DB Cargo's new railhead that supplies aggregates to the London area significantly reducing the number of road miles. Capable of handling high volumes to supply the capital's construction industry with CEMEX being a valued business partner.

Difficulties in securing new daytime capacity has led to overnight traffic increases and therefore limited by fatigue diagramming rules.

Attercliffe

Supply point in the heart of Sheffield serving a large area of South Yorkshire. Ongoing work to increase stock holding capacity and invest in track improvements.

Norwich

Important CEMEX site supplying Norwich & surrounding area. Ongoing development of the site to increase volumes and traffic.

Dallam

Dallam is CEMEX's only site in Cheshire/Merseyside supplying the region with aggregate and increases in demand has seen services being increased from one service to two services per week on a regular basis, removing over 200 HGV vehicle movements per week on the busy North West roads.

Tunstead & Lostock

The closure of the Winnington works and the consolidation of works solely on the Lostock site means the rail supply of limestone is critical to the plant operation with no alternative works.

Existing loading slots need to be maintained at Tunstead to avoid affecting third party operations and existing discharge slots need to be maintained at Lostock due to Tata Chemicals staff rotas and plant operations.

SUMMARY

In summary, one hour 'window' rights are required to support this traffic by maintaining an efficient base plan and aligning us for future growth opportunities to maintain competitiveness.

One-hour window rights are essential to the efficient diagramming and rostering of Drivers & Ground Staff.

One hour 'Windows' are requested so that future timetable changes do not diverge excessively from the current train slots being offered by Network Rail. Significant retiming to an arrival or departure

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may result in the need to retime the inbound or return workings to maintain terminal times. Significant increases in overall journey times could potentially result in non-workable terminal plans and consequently lead to an increase in traincrew costs, which could impact on the profitability of the existing DBC contracts.

3.2 Capacity considerations: Please detail the steps taken by the parties to satisfy themselves that there is sufficient network capacity for the services in the proposal. Include details on all relevant capacity considerations, including but not limited to track and power supply traction. Will the proposed Rights operate over an area subject to a **Declaration of Congested Infrastructure**, or will the capacity requirement result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code)

N/A		

3.3 Safety risks: Please 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).

N/A			
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3.4 Contract duration: For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the Regulations 2016.

N/A

3.5 Performance: Are there any implications for overall network performance? Please outline your

assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

A Power BI performance report covering all services within the Seventy Second has been shared with the relevant Regions and any queries have been successfully resolved as part of internal consultation.

3.6 Maintenance and renewals: Are there any implications for the facility owner's maintenance and renewal activities?

NW&C Region are in negotiation with the Freight Operators and End Users for additional maintenance access.

3.7 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): Please explain any areas of the application which have <u>not</u> been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

This application has been approved through Internal Consultation (SoAR Panel) at Network Rail. It is now progressing simultaneously through Industry consultation, but insufficient time has been available to complete this ahead of the ORR deadline to receive applications of 20th May 2024.

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3.8 Bespoke provisions (departures from ORR's model access contracts)
Does the proposed contract include any departures from ORR's model access contract:
Yes □ No ⊠
If yes, please set out and explain any:
 areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.
N/A
 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 access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).
N/A
 new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.
N/A
3.9 Consolidated contract For amendments to existing contracts, is the version of the consolidated contract on our website fully up to date? If not, please explain why not.
N/A

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4. The expression of access rights

4.1 Changes to rights: please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

Please see attached marked up Schedule 5 rights table indicating requested changes. These are summaries below:

Additional 'New' Access Rights

6H54 WO Peak Forest Up Sidings – Ashburys SS 6H55 WO Ashburys SS – Dowlow Briggs Sdgs

SG 1603

SG 1224

6M04	SX	Dowlow Briggs Sdgs – Toton North Yard
6L92	TO	Toton Up Sidings - Eccles Rd Johnston's Sdg
6M88	TO	Eccles Rd Johnston's Sdg – Toton North Yard
6H11	MSX	Toton North Yard - Dowlow Briggs Sdgs
6L90	ThO	Toton Up Sidings – Norwich Goods Yard
6M64	ThO	Norwich Goods Yard - Toton North Yard
6E95	WO	Dowlow Briggs Sdgs – Boston Sleaford Sidings
6M66	ThO	Boston Sleaford Sidings – Toton North Yard*
6L86	MO	Mountsorrel Sdgs - Chesterton Redland Siding
6M56	MO	Chesterton Redland Siding - Toton North Yard

Amended Access Rights

SG 1224

6H09 SUN Dowlow Briggs Sdgs - Peak Forest Up Sidings

SG 1603

6M52	WThFC	Attercliffe Sdgs EWS – Peak Forest Cemex Sdgs
6M53	SO	Attercliffe Sdgs EWS – Peak Forest Cemex Sdgs
6E89	SUN	Dowlow Briggs Sdgs – Peterborough West Yard
6F07	TFO	Peak Forest Cemex Sdgs – Dallam Freight Depot
6H07	TO	Dallam Freight Depot - Peak Forest Cemex Sdgs
6H07	FO	Dallam Freight Depot - Peak Forest Cemex Sdgs

4.2 Firm rights: Do the 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?

DB Cargo holds freight haulage contracts for traffic moving in the Train Slots for which it is seeking Firm Rights. Whilst two of the contracts do not extend beyond DB Cargo's existing Track Access contract (expiry PCD 2026), DB Cargo will enter into discussions with regard to new contracts prior to expiry of the existing terms.

4.3 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)..

N/A		

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

This Seventy Second Supplemental seeks for:

- 12 Additional 1 hr 'window' Firm Rights
- 7 Amended 1 hr 'window' Firm Rights
- 14 Removed 1 hr 'window' Firm Rights

The duration of these proposed rights are until PCD 2026.

4.5 Long Term Planning Process: Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

Ν	l/A	

6. Incentives

6.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance.

There are no planned projects associated with the particular flows in the Seventy Second Supplemental Agreement.

6.2 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.

There are no planned projects associated with the particular flows in the Seventy Second Supplemental Agreement.

6.3 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)

N/A

7. Enhancement

7.1 Enhancement details: Please provide details of any relevant enhancement schemes. Where the proposal delivers part of, or the associated services are subject to, a network enhancement, please summarise the outputs and timescales of the scheme and explain the extent to which the Part G Network Change procedure has been completed.

There are no network enhancements associated with this Seventy Second Supplemental Agreement.

7.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with the <u>investment framework</u>, and summarise the level and duration of payments, and the assumed rate of return.

N/A

8. Associated access contracts

8.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other previous, current or forthcoming applications to ORR (e.g. in respect of track access, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide details.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

Other applications are being made as part of this process by DB Cargo and include the following:

73a, 79a, 81a, 83a, 84a, 85a, 86a, 87a, 88a, 91a, 92a

8.2 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 Example.com/Example.

N/A

9. Pre-application consultation

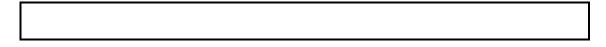
9.1 The consultation:

If consultation has not been carried out, explain why not.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

If a consultation has been carried out 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 one calendar month, please explain the reasons for this.
- If the consultation was concluded some time ago, please explain why you consider it is still valid.
- have there been any material changes since consultation that could affect the validity of the responses received?
- please list any information that you have redacted from any documentation sent to consultees and the reasons for the redactions.



9.2 Resolved issues: please explain any issues raised by consultees which have been resolved.
9.3 Unresolved issues: Please explain any issues raised by consultees which have <u>not</u> been satisfactorily resolved and why you think these issues should not stop ORR approving the application. Include details of steps taken to resolve the dispute such as meetings or counter offers and provide copies of correspondence where available.
10 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
For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here: Signed
Name (in caps) Job title For (company)
11. Submission
11.1 What to send: please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, in plain Microsoft Word or Open Document Text format (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).
11.2 Where to send it:
Freight Track Access Manager Email: track access@orr.gov.uk

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