

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

1. Introduction

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

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

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

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

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

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

2. The application

2.1 Title of proposed contract or supplemental agreement (please also include the section of the Railways Act 1993 under which you are applying):

Section 22A: 7th Supplemental Agreement

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

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail	Company: First Greater Western Limited
Contact individual: Sue Yeo or Jayne Tipton	Contact individual: Robert Holder
Job title: Customer Manager, FGW	Job title: Network Access Manager
Address: Western House 1 Holbrook Way Swindon. Wilts. SN1 1BD	Address: Milford House 1 Milford Street Swindon. Wilts. SN1 1HL
Telephone number: 01793 839562	Telephone number: 0751 533 1596
E-mail address: FGWTACConsultation@networkrail.co.uk	Fax number: 01793 499540
	E-mail address: robert.holder@gwr.com

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

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

C&Ps paras 3.9-3.15

The beneficiary intends to operate the services itself, and fulfils all relevant safety needs.

3. The proposed contract or amendment

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

C&Ps para 3.22-3.28

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

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

Proposed commencement date: December 2017 PCD.

End date: Expiry of the Track Access Contract (Currently the Principle Change Date 2019).

The proposed Supplemental Agreement seeks to amend the Network Rail / GWR Track Access Contract to provide specific firm right to stable three high speed trains each night in Paddington Station from the PCD December 2017.

It is intended to incorporate in Schedule 5 the firm right (model clause paragraph 8.6 and table 8.4) to stable each night between 20.00 and 08.00 three HST length trains in platforms at Paddington Station having shore supply.

GWR's Franchise expires 31 March 2019 or later at the DfT's discretion.

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

1. Network Rail believes the general right already within the contract provides GWR with the comfort it needs. GWR takes the view that specific right to Paddington is necessary as alternative locations (if any) do not have adequate facility. The HSTs need to be very close to London to protect early morning departures, and require ability to clean and service interiors and to have shore supply to protect diesel engine reliability; and
2. Network Rail has not yet had chance to consider the practicality of use on nights of the week other than Saturday nights.

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

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

The proposed change is consistent with the model clause contract.

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

4.1 Benefits: please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on

other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

It is intended to incorporate in Schedule 5 the firm right (model clause paragraph 8.6 and table 8.4) from December 2017 to stable each night between 20.00 and 08.00 three HST length trains in platforms at Paddington Station having shore supply.

The rolling stock involved is until then stabled at GWR's Old Oak Common Light Maintenance Depot ("OOC"), but this site is reduced in capacity in stages and eventually closed to release land for construction of the HS2 railway. The trains therefore need alternative stabling facility.

Apart from Paddington station itself there is no suitable overnight stabling capability with spare capacity within reach. If GWR is unable to stable at Paddington it will be required to withdraw passenger services, creating substantial passenger disbenefit compared with now, losing income to the industry and frustrating delivery of the Franchise Service Level Commitment.

The need for stabling at Paddington other nights of the week is a new emerging need arising from revised dates for HST cascade dependent on IET Class 800 series delivery.

If any other suitable stabling site were to be found with capacity on any particular day it would require the route to be kept open so they could be reached reducing the time potentially available to undertake valuable infrastructure engineering work over a complex and intensely used route section where robust maintenance access is a key priority to ensure service resilience.

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

1. It is GWR's understanding that the practicality of stabling these trains in Paddington on Saturday nights has been proven to the satisfaction of Network Rail which has considered potential need for the resource including the requirements of its infrastructure maintenance regime both prior to and post Crossrail;
2. Investment is planned to update shore supply capability at Paddington in time to facilitate this proposal; and
3. The proposal is the result of analysis and agreement between the DfT, HS2, Network Rail and GWR.

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

None.

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

No journey time protection is proposed.

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

None.

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

These services are consistent with the terms of the Franchise Agreement including the Service Level Commitment. GWR believes the rights are essential to enable the SLC to be delivered.

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

Funding for the shore supply is provided by the government, as is HS2 itself and the release of Old Oak Common GWR depot.

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

These bodies (where applicable) are included in this consultation.

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

These are consistent with the Western Route Long Term Planning outcomes. It is our understanding that all long term planning has HS2 (the driver for this proposal) to current planned timescales as a key axiom.

5. Incentives

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

Without this initiative train services are at risk.

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

1. Shore Supply is being delivered by Network Rail.
2. The Engineering Access Statement is anticipated to include reference to this need.

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

n/a

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

n/a

6. Enhancement

OFFICE OF RAIL REGULATION
ONE KEMBLE STREET, LONDON, WC2B 4AN

Switchboard 020 7282 2000 • Fax 020 7282 2041 • Website www.rail-reg.gov.uk

Form **P**

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

Paddington Shore Supply is to be upgraded.

Network Change is planned for the OOC Depot staged closure programme (as are various Depot change / lease processes).

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

These are not funded by the operator.

7. Other

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

None.

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

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

None at this stage save the draft Supplemental Agreement.

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

None.

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

8. Pre-application consultation

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

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

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **C&Ps paras 3.62**

The consultation was for two weeks. The rationale was explained to consultees. No-one sought more time. The list of consultees is on the covering email and includes all those routinely consulted by Network Rail when a Section 22 Application consultation is made.

Three responses to the consultation were received. The Department for Transport acknowledged receipt.

Passenger Focus supported the proposal in order to secure the timetable offer to passengers;

Transport for London and MTL Crossrail indicated support for a window 00.01 to 05.00 so long as Crossrail crew training needs were honoured; and

Heathrow Airport Ltd. indicated concern re the security of infrastructure maintenance.

Network Rail has not yet had time to consider the midweek stabling aspect. It has asked GWR for more information regarding the midweek stabling need. It had previously advised it was happy with Saturday night stabling from a practical point of view but that rights were already sufficient.

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.

Responses have not yet been provided.

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

The are two issues.

1: Transport for London and MTL Crossrail indicated support for a window 00.01 to 05.00 so long as Crossrail crew training needs were honoured:

GWR is working through the stabling requirement in detail to try to help meet this revised window.

2: Heathrow Airport Ltd. indicated concern re the security of infrastructure maintenance:

GWR is assessing the maintenance windows in the Engineering Access Statement and believes a way through this is possible. Maintenance need midweek is often lighter than on Saturday nights. Network Rail has been asked for its view.

9. Certification

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

In the case of agreed applications under section 18 or 22, Network Rail should fill in the required 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

SignedR M Holder..... Date 02 02 17.....

Name (in caps) ROBERT HOLDER Job title NETWORK ACCESS MANAGER

For (company) FIRST GREATER WESTERN LIMITED.....

10. Submission

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

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

10.2 Where to send it:

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