

APPLICATION TO THE OFFICE OF RAIL REGULATION FOR A STATION ACCESS CONTRACT UNDER SECTION 17 OF THE RAILWAYS ACT 1993

1. Introduction

This form should be used to apply to the Office of Rail Regulation (ORR) for directions under section 17 of the Railways Act 1993 (the Act) for a new station access contract. Section 17 is the means by which those seeking the right to use a railway facility apply for compulsory third party access if they have failed (for whatever reason) to reach agreement with the facility owner.

The form sets out the ORR's standard information requirements for considering such applications.

It is very important that the application is made in good time and prospective applicants are strongly advised to read (and if necessary take advice on) the procedures which are laid out in the Act, (Section 17 and Schedule 4).

The Stations and Depots Team at the ORR will be happy to discuss prospective applications. Applicants are strongly encouraged to contact the Office at an early stage, preferably before making an application, to discuss their likely requirements. Contact details are shown at the foot of this form.

A copy of ORR's template passenger station access contract, can be accessed electronically and downloaded via the ORR website (www.rail-reg.gov.uk). The office is hoping that the industry will implement the Stations Code by the end of this year. You might therefore also want to consider the template station access contracts under the Code (<http://www.rail-reg.gov.uk/server/show/nav.227>).

2. The application

2.1 Title of proposed contract:

Grand Central Station Access Contract – York Railway Station

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

Company: Grand Central Railway Company Ltd.

Contact individual: Sean English

Job title: Operations Director

Address: 5 The Crescent, York, YO24 1AW

Telephone number: 01904 633307

Fax number: 01904 466066

E-mail address: se@grandcentralrail.com

2.3 Licence and railway safety case Please state whether the applicant intends to use the station himself or whether someone else will use the station on his behalf

Grand Central will operate six timetabled arrivals and departures from York station seven days per week. Grand Central will require common station facilities via the current Station Facility Owner (Great North Eastern Railway).

Please state whether the proposed user of the station (a) holds a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, and (b) has an accepted railway 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 which that person has reached in his obtaining of the licence, exemption or railway safety certificate (as the case may be)

License - Consultation period ended.

Safety Certificate – Submitted and all issues closed by Network Rail. Awaiting final sign off by HMRI.

3. The proposed contract

3.1 Executive summary Please provide an executive summary of the proposed contract. This should cover the services, the commercial terms, and the applicant's reasons for seeking the contract in the terms proposed. The summary in this section should also explain (here or by cross-reference to the answers in the sections below):

- where there is an existing agreement in respect of the services in question, any differences between the existing agreement and the proposed contract;
- any aspects in which the proposed contract contains bespoke provisions departing from the published template station access contract; and
- any material safety risks that have been identified arising from the proposed contract and the arrangements for their control and mitigation (by reference to the provisions of the operator's railway safety certificate and, so far as is possible, the safety authorisation / certificate of the facility owner)

Grand Central Railway Company Ltd. seeks a Station Access Agreement at York Station to enable its timetabled services to call at the station from 20 May 2007. There is currently no existing access agreement between Grand Central and the current Station Facility Owner. The access contract will be based on the ORR's template station access contract with no bespoke provisions that depart from the published template.

There has been no material risks identified through the template contract and full risk assessments have been undertaken in line with the Grand Central Safety Case.

3.2 Terms not agreed with the facility owner Please set out here those specific areas of the proposed contract which the applicant has **not** been able to agree with the facility owner, the reasons for the failure to agree and the reasons for seeking these provisions

Grand Central has been attempting to negotiate Station Access at York with GNER since June 2006.

Despite repeated requests for information and meetings to discuss QX and LTC charges and all other access issues – costs, common facilities, car parking etc. GNER has still not provided detailed information for Grand Central to be able to consider the proposed charges, nor firm up a proposed contract that would form the basis for initial consultation.

There has not been a failure to agree specific terms, as in the 8 months of "negotiation" no specific terms have been offered. Grand Central is conscious of the requirement to have an agreement in place ahead of the planned operational launch date of 20 May 2007.

Having provided GNER with timetable data in order that QX and LTC charges can be provided Grand Central has still not received a detailed estimate of costs and is no nearer in reaching an agreement on access rights for common station facilities. In order to meet the service introduction date, Grand Central now wishes to seek these provisions through this application.

3.3 Departure from ORR's template station access contract Please set out here, with reasons, any areas where the drafting of the proposed contract omits, amends or adds to the ORR's published template station access contract (as appropriate, cross-referencing to the answers below). Wherever the proposed contract contains a new process (e.g. a self-modification provision) the ORR will wish to see a flowchart illustrating that the process is robust, internally consistent and leaves no loose ends

There are no proposed departures from the ORR's template by Grand Central however we are concerned about the draft contract submitted to Grand Central by the SFO and in addition an area within the Station Annexes, details of which are listed below -

Schedule 1 Item 9. Relates to abatement of the CIS. Annex 6 identifies abatable charges and therefore we do not believe there is a requirement to refer to this in Schedule 1.

Annex 1 item 2.5 Common Station Amenities for Passenger Operators –

This item clearly highlights that the short stay and long stay car parks are common areas. We believe that as far as the Long Stay Car park is concerned the SFO using a large proportion of this area as an exclusive for their Executive Passengers.

Annex 2 QX Item 2.1 indicates the SFO will not give credit for any money received via the car park income and 3.5 indicates that the costs associated with the car park operation do not form part of the costs due under QX. We are unable to trace any Station Change proposal within the annexes to confirm this significant change in conditions.

3.4 Duration of contract Please indicate the commencement date sought for the proposed contract, and provide justification for the proposed duration if appropriate

Grand Central seeks an initial five year contract in line with ORR guidance.

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

4.1 Benefits Please set out what specific benefits will result from the proposed contract. In particular, please describe any new rights sought or significant changes in the facilities or services to be used, their benefits to passengers and any impact on existing beneficiaries.

The new rights sought are the granting of Grand Central Railway Company Ltd. permission to use York Station as a Beneficiary. There are no material changes sought to the facilities. However Grand Central will offer the following to existing and new rail passengers from York –

- 3 new journey opportunities from York to London Kings Cross seven days per week
- 3 new journey opportunities from York to Sunderland, calling at Thirsk, Northallerton, Eaglescliffe and Hartlepool.
- Park and ride facilities for Grand Central passengers at Monks Cross – within the outer ring road of York.
- Taxi collect – door to station facilities for Grand Central passengers.
- Walk up unrestricted fares structure offering substantial discount on current fares.

4.2 Adequacy Please set out to what extent and by what process (if any) the applicant has satisfied himself that the facilities and services required can be supplied at the station in question.

Grand Central will be providing an additional six train services (three up direction/three down direction) per day which will have limited impact in station capacity and operations. All infrastructure that Grand Central require is already in existence at the station, and trains have been time-tabled to stop there.

4.3 Franchise obligations Please indicate the extent to which the use of the station in the proposed contract is necessary to fulfil obligations under a franchise agreement.

Grand Central is an Open Access operator and is therefore not governed by the terms of a franchise agreement.

4.4 Public funding Please indicate whether (and if so to what extent) the services in the proposed contract are subject to financial support from central or local government (other than the Secretary of State), and provide a point of contact at that body

Grand Central does not receive financial support from a central or local government body.

4.6 General guidance given by the Secretary of State and/or Scottish Ministers Please state here any general guidance given by the Secretary of State or the Scottish Ministers considered relevant to this application and why

The application is in line with the Government's stated aim of improving transport links and particularly "connectivity" as outlined in the Northern Way.

5. Charges

Please indicate how, and explain the reasons for, the proposed charges were determined and in particular how the principles outlined in ORR's published guidance on station charges¹ have been applied, providing supporting documentary evidence where necessary.

Grand Central has not received sufficient information to back up the proposed QX or LTC charges from the Station Facility Owner.

6. Enhancement

6.1 Enhancement details Where the proposed contract provides for the delivery of any station enhancements, or the services in the proposed contract are predicated on any planned station 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 station change procedure in the station access conditions (Part C) has been completed (where appropriate, by reference to submissions made under the ORR's enhancement reporting framework)

There are no station enhancements proposed under the agreement.

6.2 Enhancement charges Please confirm that the arrangements for the funding of any station enhancements are consistent with the ORR's enhancement framework, and summarise the level and duration of payments, and the assumed rate of return (see Chapter 18, *The Periodic Review of Railtrack's Access Charges: Final Conclusions, Volume 1*, Office of the Rail Regulator, London, October 2000)

As above.

7. Other

7.1 Associated applications to the ORR Please indicate whether this application is being made in parallel with, or relates to, any other current or proposed applications to the ORR (e.g. in respect of track, station or light maintenance depot access contracts or agreements)

A separate application may be made for Depot Access for permission to utilise Bounds Green Depot. A track Access agreement with Network Rail was signed on 18 January 2007.

All other Station Access Agreements have been developed and agreed with the relevant SFO and the necessary Section 18 Agreements are under preparation - providing Grand Central with the necessary permission to call at line of route stations as per its timetable.

7.2 Supporting information Please indicate here any further justification or relevant information in support of the application, including a list and explanation of any other material being submitted (and supply copies with the application)

¹ e.g. *A Fair Deal: Guidelines on Adjustments to Station Long Term Charges*, ORR, London, 1998
<http://www.rail-reg.gov.uk/upload/pdf/76.pdf>

Full supporting information for this application was contained in Grand Central's initial Track Access Section 17 application made on 24 February 2004.

7.3 Side letters and collateral agreements Please confirm here that the whole of the proposed contract between the parties has been submitted with this application and that there are no side letters or other documents which qualify or otherwise affect the proposed access contract

7.4 Confidentiality exclusions Please indicate clearly any elements in the application and the proposed contract that the applicant would wish to exclude from wider consultation on the grounds of confidentiality specified in section 71(2) of the Railways Act 1993, and provide a full justification for each instance by reference to those statutory grounds. Subject to its decision on such exclusions, it is the ORR's intention to publish this application and the proposed contract on the ORR website. (NB under the process established by Schedule 4 of the Railways Act 1993, the ORR is obliged to send a copy of the application **in full** to the facility owner)

There are no exclusions.

8. 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 (including section 17), 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

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

Signed

Date ...01 March 2007

Name (in caps)Sean English.....

Job title ...Operations Director

For (company) ...Grand Central Railway Company Limited

9. Submission

9.1 What to send

Please supply, in hard copy, the signed top copy of this application form, three copies of the proposed draft contract, copies of any documents incorporated by reference (other than established standard industry codes or other instruments) and any other attachments, supporting documents or information.

Please also supply the application, the proposed contract and, insofar as it is 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).

9.2 Where to send it

Head of Stations and Depots
Directorate of Rail Markets, Passengers and Freight
Office of Rail Regulation
1 Kemble Street
LONDON
WC2B 4AN