

APPLICATION TO THE OFFICE OF RAIL AND ROAD 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 and Road (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.orr.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):

Under Section 17:

Track Access Contract (Passenger Services) Between Network Rail Infrastructure Limited and Virgin Trains Limited

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

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail Infrastructure Limited	Company: Virgin Trains Limited
Contact individual: Craig Tomlin	Contact individual: C/O Barry Gerrard
Job title: Customer Manager (Aspirant Open Access Operators)	Job title: Company Secretary
Address: Network Rail, 2nd Floor, One Eversholt Street, London, NW1 2DN	Address: The Battleship Building, 179 Harrow Road, London, W2 6NB
Telephone number: 07801 907659	Telephone number: 020 7313 2000
Fax number:	Fax number:
E-mail address: craig.tomlin@networkrail.co.uk	E-mail address: barry.gerrard@virgin.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

Virgin Trains Limited does not currently have a valid train operating licence or an accepted safety case. These will be secured following the award of the access rights sought in this application.

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**

This application is for rights to operate services on the West Coast Main Line (WCML) between London Euston and Liverpool Lime Street. The services will be operated by Virgin Trains Limited (VTL).

The application is seeking rights to enable VTL to operate a new hourly service through most of the day (24 services per day, 7 days a week) between London Euston and Liverpool Lime Street, from the Principal Change Date December 2022. It is expected these services will also call at Nuneaton, Tamworth, Lichfield, and Liverpool South Parkway. This stopping pattern will connect previously unconnected towns and cities to the City of Liverpool. The contract would expire at the Principal Change Date December 2027.

The services will be operated using Class 221, 125mph, tilt-enabled rolling stock.

The new services will be unique in the UK rail industry. Every ticket will be guaranteed to be at least 10% cheaper than equivalent tickets offered by rail competitors. Each ticket will also come with a seat reservation for a specific service, meaning everyone will be guaranteed a seat. The VTL service would be the only rail service in the UK to guarantee no overcrowding, in normal operations. If there is disruption on the rail network and services are busier than normal, any customer who cannot get a seat will get a full refund of their ticket.

VTL believes that there is off-peak and weekend capacity on the proposed route in the existing WCML timetable and as part of this application is looking forward to exploring with Network Rail how that capacity could be made available to Virgin Trains. It is Network Rail's responsibility to ensure it uses its capacity for the benefit of all passengers and freight. The rights sought by VTL are intended to be flexible so that Network Rail can make the best use of capacity on routes with high demand.

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**

This application has not yet been discussed in detail with Network Rail. Network Rail has not yet validated the proposed timetable, nor have they quantified the amount of capacity available for this new service.

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**

This agreement is based on the Passenger Track Access Model Contract (April 2019 version) which is intended for franchised operators. This contract has been amended to reflect use for Open Access.

The following additional schedules have been included:

Schedule 11: Schedule 8 modifications reopener

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**

VTL's train services are planned to operate as follows:

London Euston to Liverpool Lime Street, calling at Nuneaton, Tamworth, Lichfield, Liverpool South Parkway.

Services are planned to make use of one off-peak hourly 125mph path on WCML, in each direction, 7 days per week. Consistent with Engineering Access requirements, VTL expects services to finish slightly earlier on Saturdays, and start later on Sundays.

Services are planned to be introduced in the December 2022 timetable. The introduction of new services will be in line with the expected acceptance of the rolling stock, following hand-back to the leasing company during 2022.

Trains will have a capacity of over 500 seats from 10 passenger vehicles. The trains have a maximum operating speed of 125mph, taking advantage of the 'Enhanced Permissible Speed' speed profile on the West Coast Main Line.

As well as new and improved connectivity between several important locations (for example direct intercity services between London and Liverpool South Parkway for John Lennon Airport), a number of towns and cities (such as Nuneaton, Lichfield and Tamworth) will gain improved direct links to and from London Euston and Liverpool Lime Street, with train services of high quality and high speed.

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**

VTL believes that there is enough capacity to accommodate these services on the WCML alongside existing train services, although a timetable recast may be required. VTL has developed indicative timetable paths and would like to discuss timetables further with Network Rail.

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**

The rights sought by VTL are intended to be flexible so that Network Rail can make the best use of capacity on routes with high demand.

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**

None.

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**

VTL will use Class 221 DEMUs in up to 10-car formation. These vehicles have run for many years on

the WCML, and as such are already route cleared and offer excellent passenger accommodation for these new services.

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**

Not applicable.

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**

None.

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**

We have not yet discussed this application with Passenger Focus and/or London TravelWatch.

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**

The WCML RUS (published July 2011) is the most relevant. The key gap in the RUS addressed by this proposal, is forecast growth in long-distance demand between London Euston and the North West / Scotland.

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**

Fleet Reliability and Maintenance

The class 221 is a very reliable diesel electric multiple unit. The current operators, maintainers and owners of the Class 221 have improved their performance and reliability over time.

Discussions with maintenance providers are on-going, however it is expected that sets will be serviced overnight in both the Liverpool and London areas, supporting train service start-up.

Performance

VTL will work collaboratively with Network Rail and other industry parties to maintain and improve performance on the WCML.

VTL will:

- Ensure that the train plan developed is fully compliant with train planning rules, and with

robust turnrounds at destination (with contingencies developed as required)

- Engage constructively with Network Rail and other industry parties in the development of robust operational contingency plans, and we recognise the need for a flexible approach to service recovery

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**

VTL will work closely with Network Rail to identify projects that could further improve performance across the WCML.

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 in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

Services will be monitored consistent with ORR policy.

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**

Not applicable.

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). **C&Ps paras 4.80**

Not applicable.

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**

Not applicable.

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**

Further applications in relation to station and maintenance access will be made following approval of this application.

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**

Financial details regarding costs and revenues are commercially confidential and if required, may be provided separately to ORR.

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**

Pre-application consultation has not been carried out.

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.

Not applicable.

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.

Not applicable.

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

Signed Philip Whitcomb Date 14/11/19
Name (in caps) PHILIP WHITCOMB Job title DIRECTOR
For (company) VIRGIN TRAINS 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 and Road
One Kemble Street
London
WC2B 4AN