



APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER 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. If a train operator wants to access the national railway network, it will need a track access agreement with Network Rail which requires ORR's approval under the Railways Act 1993. When determining access to the network, we must have regard to our [statutory duties](#), most of which are set out in section 4 of the Act. We must exercise our functions (which include the approval of access contracts) in a way that we consider best achieves those duties.

Use this form to apply to the Office of Rail and Road (ORR) for a passenger track access contract, or an amendment to an existing contract by a supplemental agreement, under sections 17-22A or the Railways Act 1993.

It sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) 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.

This form should be completed up to section 10 and sent to consultees along with a copy of the proposed contract or supplemental agreement. Sections 10 and 11 should be filled in after the consultation and before applying to ORR.

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](#). 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 version 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 [website](#).

1. Application Summary

1.1 Beneficiary company name:

WEST MIDLANDS TRAINS LIMITED

1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input type="checkbox"/>	Scotland's Railway <input type="checkbox"/>
Other Facility Owner:	<input type="checkbox"/>	Please state:			

1.3 Application under the Railways Act 1993 section:

17 <input type="checkbox"/>	18 <input type="checkbox"/>	22 <input type="checkbox"/>	22A <input checked="" type="checkbox"/>
Supplemental Number:			22nd
Current contract date:			15 th May 2019
Current contract expiry date:			PCS 2026

1.4 Applicant status:

Public Service Operator <input type="checkbox"/>	Public service contract start date:	19 th September 2021
	Public service contract end date:	20 th September 2026
	Name of funder (e.g. DfT, Local Authority):	WMRE
	Does the funder support this application?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Open Access <input type="checkbox"/>		
Charter Operator <input type="checkbox"/>		

1.5 Executive summary of the proposed contract or amendment:

The purpose of this proposed supplemental Agreement is to update the Track Access contract ('the Contract') between West Midlands Trains and Network Rail to provide West Midlands Trains ('WMT') with the rights required to operate train services from the Principal Change Date 2024.

WMT are seeking firm rights to operate Weekday, Saturday and Sunday services along the Camp Hill route between Birmingham New Street and Kings Norton serving new stations at Moseley, Kings Heath, and Pineapple Road.

Proposed commencement date:	PCD 2024
End date:	End of contract
Date approval or directions wanted by:	TBC

1.6 Industry consultation:

Who carried out the consultation?	Akaash Bhandari		
Consultation start date:	20 May 2024	Consultation end date:	21 June 2024
Not carried out <input type="checkbox"/>			

1.7 Applicant details

<u>Facility Owner</u> Company: Network Rail Contact name: Akaash Bhandari Job title: Franchise and Access Support Manager Address: Baskerville House, Centenary Square, Broad Street Birmingham B1 2ND	<u>Beneficiary</u> Company: West Midlands Trains Limited Contact name: Scott Turner Job title: Network Access Manager Address: West Midlands Trains Limited 134 Edmund Street Birmingham B3 2ES
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Phone: [REDACTED] E-mail: [REDACTED]	Phone: [REDACTED] E-mail: [REDACTED]
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1.7 Date of application to ORR:

24 June 2024

1.8 Checklist of documents attached to the application form:

- Proposed new contract (S17 or S18) or supplemental agreement (S22 or S22A)
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting documentation required for competing services (see section 6.2)
- Other supporting documents, side letters or collateral agreements (please list):

2. Licence and railway safety certificate

2.1 Please state whether:

- you intend to operate the services yourself; or
- have them operated on your behalf.
 - if so, please name the proposed operating company:

[REDACTED]

2.2 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.

[REDACTED]

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).

The 22nd Supplemental seeks to secure Firm Rights for WMT to introduce a new service along the Camp Hill route, this will operate at 30-minute frequency 7 days of the week using Class 196 Diesel Multiple units, the service will run between Birmingham and Kings Norton Calling at the newly introduced immediate stations of...

- Moseley
- Kings Heath
- Pineapple Road (Formerly Hazelwell)

Services are anticipated to start during the December 2024 timetable period and the current projected completion date for the stations is February 2025

WMT is seeking Firm Rights to operate the following services:

Weekdays

- 33 additional SX slots from Birmingham New Street to Kings Norton.
- 34 additional SX slots from Kings Norton to Birmingham New Street.

Saturdays

- 33 additional SO slots from Birmingham New Street to Kings Norton.
- 34 additional SO slots from Kings Norton to Birmingham New Street.

Sundays

- 15 additional SUN slots from Birmingham New Street to Kings Norton.
- 15 additional SUN slots from Kings Norton to Birmingham New Street.

In the short term from commencement services will terminate and restart at Platform 4 at Kings Norton. This is facilitated by the reduction in quantum (2tph removed during Covid-19) of Cross City (South) services. These have not yet been reinstated, given that any further uplift in WMT's quantum of services on Cross City (South) is dependent on allowing Camp Hill services to terminate independently from the Cross City (South) at King's Norton. Significant infrastructure intervention is proposed at Kings Norton as part of the wider Midlands Rail Hub proposals, to address this.

From 06:00hrs until 20:00hrs services will operate at xx:27 and xx:57 past the hour from Birmingham New Street and xx:20 and xx:50 past the hour from Kings Norton, the service will reduce to an hourly frequency from 20:00hrs until end of service.

3.2 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).

This proposal does not present any additional safety risks.

3.3 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 [Railways \(Access, Management and Licensing\) Regulations 2016](#).

Not applicable to this application

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

Due to the requirement by the ORR to submit unsupported applications by the 20th of May 2024 Network Rail have not been able to fully agree the application or take the proposed application to a SOAR panel.

3.5 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.

- 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).

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

3.6 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.

4. The impacts of the proposal

4.1 Benefits: please set out what specific benefits the proposal will achieve. Please describe the benefits to passengers and any impact on other operators, including freight operators.

The change detailed above is being sought to introduce a 2 train per hour (tph) service between Birmingham New Street and Kings Norton, calling at new stations at Moseley, Kings Heath and Pineapple Road on the Camp Hill lines.

As part of a £61 million investment from the WMRE as part of the West Midlands Rail Programme the introduction of the 3 new stations and the associated timetable will provide faster, more reliable transport for those who live and work in the area. It also it projected that train journeys could replace

up to 25% of car journeys in the area. This will improve the local area, reducing congestion and pollution as well as shortening journey times in South Birmingham.

4.2 Capacity: How have you satisfied yourself that there is enough network capacity for the services in the proposal? Please include details on all relevant capacity considerations, including but not limited to track, platform availability, and power supply traction.

Capacity analysis is currently being undertaken by Network Rail's Capacity Planning team, specifically for services with aspirations to call at Birmingham New Street. Further information will be provided once this work is complete.

4.3 Performance: What is the impact on 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.

Performance data is currently being sought

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

Maintenance colleagues have/will be consulted as part of the application. The application for these rights has already been given approval by the TP-RAM chair.

5. The expression of access rights

5.1 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.

The application sees new services being introduced to run between Birmingham New Street and Kings Norton, with calling stops at newly built stations. The last version of the consolidated agreement didn't include these services and a fully marked-up version of the Schedule 5 tables which shows the modifications to the tables has been attached alongside this application.

5.2 Flexing rights: Please explain any limitations on the facility owner's flexing rights in the proposal and the rationale for such limitations.

Not applicable to this application

5.3 Specified equipment: Please explain any changes to specified equipment (rolling stock). Has 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.

Not applicable to this application

5.4 Contractual obligations: Are the proposed services necessary to fulfil obligations under a public service contract? For publicly contracted operators seeking additional access rights, we will expect to

see evidence of funder support for the specific rights and of operators' intent and ability to operate the new services.

Not applicable to this application

5.5 Public funding: Other than the DfT, Welsh Government or Transport Scotland, are the proposed services subject to financial support from central or local government including PTEs. If so, please give details.

Not applicable to this application

5.6 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.

All changes contained within this proposal have been bid for as part of the Long-Term Planning Process.

6. Competing passenger services:

We would expect to apply the 'not primarily abstractive' test to:

- (i) a new open access service which would compete with franchised services and so impact on the public sector funder's budget;
- (ii) a new franchised service which would compete with an existing franchised service, where we would expect to focus the test on areas where the competing franchised services are operated on behalf of different funders or where for some other reason there are particular concerns over the impact on a funder's budget; and
- (iii) a new service, which might be open access or franchised, which would compete with an existing open access service and which, if it caused the existing open access operator to withdraw from the market, could reduce overall competition on the network.

6.1 Please state if your application is for a competing passenger service, and if so please describe the nature of the competition:

As part of this application for quantum of rights it has been identified there are a number of competing aspirations for capacity at Birmingham New Street from PCD 2024 and beyond.

Below outlines the operators seeking rights at Birmingham New Street

CrossCountry Trains

As part of the timetable change, XCTL will introduce a daily though service in each direction between Cardiff and Edinburgh, promoting Union Connectivity. This utilizes existing paths between Birmingham and Edinburgh, and the rights required are new access rights. At this stage Network Rail aren't supportive of these rights being sold on a contingent basis up to SCD 2025.

- 2 SX rights 221 Cardiff – Birmingham
- 1 SX right 221 Nottingham – Birmingham
- 2 SX rights 221 Birmingham – Bristol Temple Meads via Gloucester
- 1 SX right 221 Birmingham – Cardiff
- 1 SX right 221 Gloucester – Cardiff
- 1 SX right 170 Nottingham – Gloucester
- 1 SO Seasonal and 1 SU Seasonal right 221 Birmingham – Newcastle
- 2 SX rights 221 Newcastle – Birmingham plus 1 Seasonal SO and 1 Seasonal SU 221 right
- 1 SX right 221 York – Birmingham plus 1 Seasonal SO and 1 Seasonal SU 221 right

- 1 SX right 221 Manchester – Birmingham

Alliance Rail

Alliance Rail currently have aspirations to operate services between Cardiff Central and Edinburgh from PCD 2025. Below is a brief description of the service plan Alliance Rail have aspirations to operate services from in PCD 2025.

- **Alliance Rail:** 5 tpd each direction, PCD 2025 – PCD 2032 (Cardiff Central, Newport, Severn Tunnel Junction, Gloucester, Birmingham New Street, Derby, Sheffield, Doncaster, York, Newcastle, Edinburgh Waverley)

West Midlands Trains

As part of their Dec '24 application as a whole, West Midlands Trains are seeking further quantum of rights for services in the Liverpool and Shrewsbury corridor. Below lists the quantum being sought for services to call at Birmingham New Street

From	To	Via	Description	Timing load	Day of week	Required
Wolverhampton	Birmingham New Street	Direct	3.31	350	SX	1
Birmingham New Street	Crewe	Stoke-on-Trent, Penkridge	4.14	350/110	SX	2
Crewe	Birmingham New Street	Stoke-on-Trent, Penkridge	4.13	350/110	SX	1

From	To	Via	Description	Timing load	Day of week	Required
Birmingham New Street	Shrewsbury	Wolverhampton	4.8	170	SX	4
Birmingham New Street	Shrewsbury	Wolverhampton	4.8	170	SX	1

West Midlands Trains are also seeking capacity for further additional services from PCD 2024 for services to run between Birmingham New Street – Shrewsbury and within the Birmingham New Street – Liverpool corridor. Below lists the quantum for these services to run to and from Birmingham New Street.

From	To	Via	Description	Timing load	Day of week	Required
Wolverhampton	Birmingham New Street	Direct	3.31	350	SX	1
Birmingham New Street	Crewe	Penkridge / Madeley	4.1	350/110	SX	2
Crewe	Birmingham New Street	Madeley	4.4	350/110	SX	1

From	To	Via	Description	Timing load	Day of week	Required
Birmingham New Street	Shrewsbury	Wolverhampton	4.8	170	SX	4
Birmingham New Street	Shrewsbury	Wolverhampton	4.8	170	SX	1

The final competing aspiration we have identified from West Midlands Trains themselves are covered within their 30th Supplemental Agreement and they are seeking an additional quantum of services to run between on the Cross City line from SCD 2025. Below lists the full quantum being sought

From	To	Via	Description	TSC	Timing Load	Weekday	Saturday
Birmingham New Street	Lichfield City	Direct	3.1	12272323 22272000	323	1	1
Birmingham New Street	Lichfield Trent Valley	Direct	3.2	12272323 22272000	323	<u>53</u> 30th <u>35</u>	<u>53</u> 30th <u>35</u>
Birmingham New Street	Bromsgrove	Direct	3.3	12272820	323	35	33
Birmingham New Street	Redditch	Direct	3.4	12272323 12272820	323	36	36
Birmingham New Street	Longbridge	Direct	3.5	12272323	323	1	3
Blake Street	Birmingham New Street	Direct	3.6	12272323	323	0	0
Lichfield City	Birmingham New Street	Direct	3.7	22272000 12272323	323	0	0
Birmingham New Street	Blake Street	Direct	3.8	12272323	323	0	0
Lichfield Trent Valley	Birmingham New Street	Direct	3.11	12272323 22272000	323	<u>54</u> 30th <u>36</u>	<u>54</u> 30th <u>36</u>

6.2 For competing services, please also confirm that you have attached as part of your submission to ORR the following:

- Business plan, including details of:
 - forecasts of passenger traffic and revenues, including forecast methodology;
 - pricing strategies;
 - ticketing arrangements;
 - rolling stock specifications (e.g. load factor, number of seats, wagon configuration);
 - marketing strategy;
 - estimated elasticities of the services (e.g. price elasticity, elasticity with respect to quality characteristics of the services).
- Demand forecasting (including associated spreadsheet models) demonstrating modelled generation : abstraction ratio.
- Indicative timetables, including associated .spg files

7. Incentives

7.1 Train operator performance: please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving operator performance.

Not applicable to this application

7.2 Facility owner performance: please describe any planned performance improvement initiatives and/or enhancement projects associated with the operation of the proposed services aimed at improving the facility owner's performance.

Not applicable to this application

7.3 Monitoring of services: Will all proposed services be monitored for performance throughout their journey? If not, please explain.

Service monitoring will be carried out in line with monitoring of all other WMT services.

7.4 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.

Due to the requirement by the ORR to submit unsupported applications by the 20th of May 2024 Network Rail have not been able to fully agree the application or take the proposed application to a SOAR panel.

8. Enhancement

8.1 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).

Not applicable to this application

8.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

Not applicable to this application

9. Other

9.1 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). 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 evidence that this process has been completed.

- 29th supplemental agreement - application for full rights for 19 services.
- 28th supplemental agreement – application for full rights within Liverpool and Shrewsbury corridors

9.2 Side letters and collateral agreements: please 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.

This application should be read in conjunction with the following documents:

- Draft 22nd Supplemental Agreement.
- Table 2.1 proposed amendments - Marked up versions of Service Groups EJ03.
- WMRE package 2 modelling report.

9.3 Confidential redactions: please list any information that you have redacted from any documentation sent to consultees. If there has been no pre-application consultation, please list any information you want us to exclude from publication. Please provide full reasons for any redactions.

Not applicable to this application

10. Pre-application consultation

10.1 The consultation:

If consultation has not been carried out, explain why not. If it has, please list the consultees.

Who conducted the consultation?

List all consultees who responded and include their responses and any associated documentation or correspondence between the parties.

10.2 Resolved issues: please explain any issues raised by consultees which have been resolved.

10.3 Unresolved issues: Please explain any issues raised by consultees which have ***not*** been satisfactorily resolved and why you think these issues should not stop ORR approving the application.

10.4 Subsequent Changes: Have any changes been made to the proposal following consultation?

11. 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.

For agreed applications under section 18 or 22, Network Rail should complete the information below. For disputed applications under section 17 or 22A, the beneficiary should complete it.

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

Signed

Date **17th May 2024**

Name (in caps) **SCOTT TURNER**

Job title **Network Access Manager**

For (company) **West Midlands Trains Ltd**

12. Submission

12.1 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).

12.2 Where to send it:

Email: track.access@orr.gov.uk