



## **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:

London and North Eastern Railway Company Limited (LNER)

### 1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input type="checkbox"/>	Wales & Western <input type="checkbox"/>	Scotland's Railway <input checked="" 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:			35 <sup>th</sup>
Current contract date:			3 <sup>rd</sup> March 2017
Current contract expiry date:			Principal Change Date (PCD) 2025

### 1.4 Applicant status:

Public Service Operator <input checked="" type="checkbox"/>	Public service contract start date:	24 <sup>th</sup> June 2018
	Public service contract end date:	The rail contract between the Secretary of State for Transport and LNER for the delivery of passenger services is due to expire on 22 June 2025. A PIN has been issued for an extension of 2 +up to a further 3 years, and as LNER is under DfT OLR Holdings Limited it is almost certain that LNER will be issued with a direct award for a minimum of 2 years. This means the contract term will be up until June 2027 with the option of extending up until June 2030.
	Name of funder (e.g. DfT, Local Authority):	DfT
	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:**

This application is made to support the ongoing development of the timetable on the East Coast Mainline (ECML) and recognising that further enhancements will be delivered with further investment in infrastructure and rolling stock on the route.

The work on the ESG timetable has been unable to find a solution for the 6.5 trains per hour (TPH) as granted in the direction of rights in May 2016.

LNER retain the aspiration to fulfil the rights granted in May 2016 in line with funder requirements and the Train Service Requirement (TSR). This application seeks to retain these rights for the long term, recognising that this industry is currently unable to fulfil them.

LNER is also procuring additional rolling stock to support the withdrawal of the existing Class 91 locomotives and MkIV rolling stock which will be life expired and provide further opportunity for enhancing service levels.

This proposal recognises that delivering further service enhancements to the ECML timetable are unlikely to be achieved before 2028 due to the level of work involved in creating the timetable and delivery of any required infrastructure enhancements.

The amended contract should be read in conjunction with the 34<sup>th</sup> Supplemental and will deliver the additional 0.5 TPH in each direction between Leeds and London as granted in the award of rights in May 2016.

This is in addition to the ESG service level as specified in the 34<sup>th</sup> Supplemental agreement and assumes that the 34<sup>th</sup> Supplemental Agreement has been approved..

It is assumed this pattern will operate on all days of the week with any variation due to amended start and end of service times for Saturday and Sunday.

Proposed commencement date:	Subsidiary Change Date (SCD) 2028
End date:	SCD 2035
Date approval or directions wanted by:	PCD 2024

**1.6 Industry consultation:**

Who carried out the consultation?	<b>Network Rail</b>		
Consultation start date:	<b>21<sup>st</sup> May 2025</b>	Consultation end date:	<b>21<sup>st</sup> Jun 2025</b>
Not carried out <input type="checkbox"/>			

**Applicant details**

<p><b>Facility Owner</b>                  Company: Network Rail Infrastructure Limited                  Contact Name: Mark Garner                  Job Title: Customer Manager                  Floor 4B                  George Stephenson House                  Network Operations                  Toft Green                  York YO1 6JT</p> <p>Phone: [REDACTED]                  E-mail: [REDACTED]</p>	<p><b>Beneficiary</b>                  Company: London North Eastern Railway                  Company Limited                  Contact Name: Malcolm Knight                  Job title: Head of Operational Planning                  West Offices                  Station Rise                  York                  YO1 6GA</p> <p>Phone: [REDACTED]                  E-mail: [REDACTED]</p>
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1.7 Date of application to ORR: 20<sup>th</sup> May 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):

Comparison ESG vs Bid timetables Weekday.xlsx (Weekday comparison)

**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:

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.

**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 proposed level of service is detailed in the accompanying marked up copy of schedule 5 of Part C of the current contract, showing the total number of services proposed for all service groups and the variation from the current contract.

This application builds on the changes covered in the 34<sup>th</sup> supplemental and seeks to add the outstanding 0.5TPH between London and Leeds in each direction. These services are critical for the long-term growth of the industry and will provide further additional capacity on the ECML.

The work to develop a revised timetable will take some time to deliver and LNER recognises this. Further enhancement work is planned covering work at York and Darlington to provide additional capacity and at the southern end of the route to deliver digital signalling between King's Cross and the Grantham area.

This amendment assumes that the 34<sup>th</sup> Supplemental Agreement has been approved.

**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).

Any enhanced timetable will be subject to significant development through the industry timetable development process and we do not believe it presents any change in the level of risk. The proposed services were assessed as part of the original grant of rights in 2016.

**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](#).

LNER is seeking an extension of its current contract to PCD 2035. LNER is investing in new rolling stock to replace remaining legacy rolling stock which will become life expired. This is a significant investment and LNER and its funder require assurance that we will be able to achieve the required payback on what is a significant taxpayer funded investment. The duration of the contract is line with that granted to other long-distance operators on the ECML who have invested in new rolling stock.

**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.

This application has yet to be approved by Network Rail's Sale of Access Rights Panel, however given that the rights sit within the envelope of rights directed in the current contract, we expect the application to move to a supported application.

### 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.

Not applicable

- 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).

Not applicable

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

Not applicable

### 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.

Consolidated to 11 March 2024 on ORR's website and in due course this will be updated with the version that includes the Periodic Review 2023 amendments via the 33<sup>rd</sup> Supplemental Agreement

## 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 benefits of this proposal have been reviewed and agreed as part of the original direction of rights in 2016. The proposal will provide for a significant uplift in capacity on the core ECML route providing significant benefits for LNER customers and the communities served by LNER.

The additional of a further 0.5TPH between Leeds and London and the introduction of new rolling stock will provide an increase in passenger carrying capacity. The new trains are all 10 carriages and will allow the passenger carrying capacity of each train path to be optimised.

The Leeds<>London market is one of the largest rail passenger flows (by revenue) in the country and we expect growth on this market to continue. LNER has already seen a significant post-COVID recovery with passenger volumes in excess of pre-COVID levels.

These services are critical to providing further capacity on the route. We have seen that adding services on the Leeds route can free up capacity on the Anglo-Scottish route providing benefits across the whole network.

We will work closely with the industry to develop the timetable, taking advantage of the benefits offered by digital signalling at the southern end of the route to enhance the timetable for all operators.

**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.

Network Rail need to work out how they can achieve the level of service specified following assurances made as part of the original grant of rights in 2016. However, these services are aligned to the introduction of digital signalling which should enhance the way the southern end of the ECML is operated.

**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.

The core ESG timetable has been subject to a significant level of performance modelling which is included with the 34<sup>th</sup> supplemental agreement. This application will add a small number of services to the route. LNER will be introducing new trains which will be significantly more reliable than those they replace. Network Rail will be introducing digital signalling at the southern end of the route which should further enhance performance.

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

Network Rail and LNER have been working closely to review the impact on planned maintenance and renewal activity, balancing the need to operate the service and allow for the safe and reliable operation of the railway. We expect a similar process to be followed with the introduction of these services. The services will operate during the day, and we do not expect any impact on overnight maintenance activity. The new trains are tri-mode and will support diversionary opportunities during pre-planned maintenance activity.

## 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.

Details of the proposed changes in quantum are provided in the accompanying document which is a marked-up version of schedule 5 of the track access contract. This shows the proposed service level for all LNER service groups. The proposed access rights are in addition to those covers in the 34<sup>th</sup> Supplemental and complete the quantum of rights granted in May 2016.

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

All rights are quantum only and do not contain flexing limitations.

**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.



LNER will have sufficient rolling stock to operate the service proposed. Rolling stock will consist of class 80x (Azuma) trains and new tri-mode sets to be delivered in 2027/28. All vehicles will have full route acceptance for the relevant routes. The rolling stock consists of:

- 10 x 9 car bi-mode sets (Class 800 series)
- 26 x 9 car electric sets (Class 801 series)
- 8 x 5 car bi-mode sets (Class 800 series)
- 10 x 5 car electric sets (Class 801 series)
- 8 x CAF supplied tri-mode sets with 2 spare sets (Class 897 series).

The CAF sets have yet to be delivered but have been specified to have the same or better performance as the current Azuma trains in electric mode. The units will be Tri-mode able to operate under electric, diesel or battery power. The units are a variant of the CAF fleet currently in operation with TransPennine Express and it will be subject to the usual rigorous fleet acceptance process. The use of battery power will support reduced emissions when operating away from the electrified network.

**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.

The services that LNER are seeking to operate are part of the LNER Train Service Requirement with the DfT and have DfT approval and funding.

**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.

There is no other public funding of the services.

**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.

This proposal will deliver within the envelope of rights granted by ORR in 2016.

## 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:

This is not a new application as the rights are within the envelope of rights approved in 2016. The original proposal was fully assessed by the ORR in 2016 on which a full economic assessment was carried out and all information. The accompanying table (Comparison ESG vs Bid timetables Weekday.xlsx) below shows the number of services operated per hour on a weekday in the ESG and the original grant of rights. This demonstrates that during the core of the day, LNER has rights for additional services in each direction every two hours. The 0.5 TPH requested in this application seeks to retain the rights for all of those services. While there are additional services in the ESG, these are all at start and end of the day and at times when LNER are operating less than 6 trains per hour.

**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.

LNER has already delivered significant additional resource to improve performance. The new Azuma fleet will operate the majority of services and these trains have already demonstrated a significant step change in reliability, performance and recovery capability which will be strengthened further by the introduction of new rolling stock to replace the last of the class 91 operated sets. This will give LNER a modern fleet of trains. As the new trains are tri-mode, they also have the ability to operate on diversionary routes during unplanned disruption.

LNER also have 4 Performance Hub Managers across the route at London, Newcastle, Edinburgh and Leeds / Doncaster. The hub managers are focused on reviewing all aspects of operational performance in their respective areas and identifying and communicating any issues. They work closely with all colleagues in the area (other operators and Network Rail) to resolve performance issues.

We also have a process of reviewing performance across all areas of the business with all functions engaged in an annual business performance planning process. LNER holds regular reviews with Network Rail on all performance issues to identify opportunities for improvement.

**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.

Significant enhancement projects have already been delivered to in readiness for the enhanced timetable. This includes the complete remodelling and re-signalling of King's Cross station and its approaches. In addition, the Werrington dive under has been developed and delivered to remove conflicting moves north of Peterborough station. Work continues on the East Coast Digital project and re-control of signalling to the York Integrated Control Centre. We expect the last two to be live by the time of the introduction of the proposed services.

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

All trains will be monitored as per usual industry process under the schedule 8 regime.

**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.

Not Applicable

## 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).

Work is already planned to take place at Darlington and York to increase capacity on the ECML. The most significant change is the introduction of digital signaling at the southern end of the route which will provide a transformation in the operation of a critical section of the route, improving performance and capacity.

**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

## 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.

This application is linked to the 34<sup>th</sup> Supplemental. We have decoupled the additional 0.5TPH from the timetable as developed by the ESG to support resolution of the issues with the ESG timetable and recognizing that further timetable work will be required to deliver the full 6.5TPH.

**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.

Not applicable

**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.

## 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?

Mark Garner, Customer Manager Network Rail

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

Jen Clare – Lumo plus LNER response  
 Louise Mendham - Hull Trains plus LNER response  
 Kate Oldroyd – Northern included in LNER response to Northern  
 Quentin Hedderley - DB Cargo  
 Ian Kapur - GBRf  
 Chris Matthews Freightliner  
 Robbie Gilbody – TPE  
 Robert Holder – GWR  
 Darren Gay – GTR  
 Chris Brandon - GC  
 Mark Garner – NR

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

**Updated following consultation**

The rights for 6.5 LNER trains per hour were granted in 2016.

Several respondents raised the issue of route capacity for the additional 0.5TPH. We believe this has been covered by Network Rail Integrated Rail Plan which will deliver the capacity for this in the late 2020s.

**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.

GC raised the issue of the quantum of trains however we believe this is covered in section 6.1 of this document which highlights how the additional 0.5TPH is missing through the core of the day.


Northern has raised concerns over how this aligns with their proposed Sheffield <> Leeds services. However the proposal for those services was made subsequent to the granting of LNER's firm rights and we believe it is for Northern and Network Rail to determine how these services can be accommodated in addition to LNER's established rights.

**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 20 <sup>th</sup> May 2024
Name (in caps) <b>MALCOLM KNIGHT</b> Job title <b>.Head of Operational Planning</b>	
For (company) ...London and North Eastern Railway Company Limited	

## 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: [REDACTED]