

## 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)<sup>1</sup>. 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](http://www.orr.gov.uk)

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<sup>1</sup> Please note that our C&Ps document has been replaced by a set of [track access guidance modules](#). This application form will be updated in due course. In the meantime please refer to the relevant sections of the new guidance modules.

## 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):

Transport for Wales Rail Ltd 4<sup>th</sup> Supplemental Agreement (Section 22A)

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

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail Infrastructure Ltd	Company: Transport for Wales Rail Ltd
Contact individual: Claire Hickman	Contact individual: Chris Dellard
Job title: Customer Manager	Job title: Head of Access Planning
Address: 2nd Floor, St Patrick's House 17 Penarth Road Cardiff CF10 5ZA	Address: 1 <sup>st</sup> Floor, St Patrick's House 17 Penarth Road Cardiff CF10 5ZA
Telephone number: [Redacted]	Telephone number: [Redacted]
E-mail address: [Redacted]	E-mail address: [Redacted]

**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**

Transport for Wales Rail Ltd intends to operate the services itself and holds a valid European Passenger Licence (with GB Passenger Statement of National Regulatory Provisions); a valid Station Licence; and a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

## 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**

**Date of commencement: 2022 Subsidiary Change Date (15 May 2022)**

**End date: Expiry of Track Access Agreement (8 August 2025)**

Proposal

Transport for Wales Rail Ltd ("TfWRL") is seeking additional track access rights to operate additional passenger services between Wrexham Central and Bidston on Weekdays and Saturdays. The key points are:

- The service is currently hourly: TfWRL is seeking additional Firm rights to operate 2 trains per hour (2tph), with the additional service each hour to have a skip-stop calling pattern. The Sunday service will remain as hourly.
- The timetable increment enables TfWRL to meet the commitment to Welsh Ministers made in the Grant Agreement of 2018 by its predecessor, KeolisAmey. Network Rail has been aware of this commitment since 2018, and the timetable that is being sought (initially for December 2021, and now for May 2022 as explained below) has been developed as part of the Wales Event Steering Group (ESG) since September 2019.
- The timetable structure developed by the ESG is designed to improve the overall reliability of the service and accommodate existing freight movements.
- The timetable, through increased frequency, provides better connections at Shotton with services on the North Wales coast.
- The service will ultimately make use of the Class 230 Rolling Stock purchased by Transport for Wales ("TfW Authority") specifically for this route and this timetable increment.
- The service uplift is an important step towards the creation of the North Wales Metro which will provide more journey options for residents and visitors across the region. A 2tph service will make train journey more attractive for commuters and leisure travellers alike and will help boost the North Wales economy by connecting people to employment, education and leisure opportunities.
- The proposals are strongly supported by local stakeholders.

Summary of position at the time of industry consultation (21 July 2021)

Keolis Amey Operations / Gweithrediadau Keolis Amey Limited, the predecessor to TfWRL, entered into a Grant Agreement with Welsh Ministers in October 2018 which included a requirement to operate a 2tph Wrexham-Bidston service on Weekdays and Saturdays from December 2021. This was included in its bid for the concession, which was submitted in December 2017. In order to include timetable increments in their bids, participants in that procurement were obliged to seek the approval of Network Rail, to ensure there was sufficient capacity for their proposals. Network Rail confirmed that in this case, there was, subject to accommodating freight paths.

Timetable changes elsewhere in Wales and the Borders are committed for December 2022 and so an Event Steering Group was set up in 2019 to prepare for those changes. Despite the Wrexham-Bidston 2tph requirement being 12 months earlier, it was agreed with Network Rail that the paths developed in the Concept Train Plan for December 2022 could equally apply to the December 2021 Timetable. This would negate creating two different timetables and any capacity issues would be considered at the same time – an efficient use of industry resources.

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Form **P**

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The commitment to provide 2tph has been strengthened with Welsh Government's multi-million-pound investment to purchase 5 Class 230 Vivarail units that will be used on the Wrexham-Bidston line. These trains are undergoing testing and driver training and are due to enter service in May 2022. These trains offer improved acceleration and braking characteristics, as well as modern customer standards of comfort and amenity. While not a prerequisite for operating a 2tph service (because TfWRL proposes that the service be timed using Class 150 Sectional Running Times, so other trains can be used in the event of unavailability of a Class 230), the purchase represents a significant investment by Welsh Government, and these trains are ideally suited to a route with a lower linespeed and frequent station stops. TfWRL do not propose to deploy, and would have little use for these units, on other routes.

Network Rail has assessed the risk profile of level crossings on this route in light of the proposed increased train service frequency and identified that interventions are necessary to 9 level crossings at 7 sites. Network Rail required a DfT funding decision which had not been made at the time of TfWRL's industry consultation but has since been made. A delay to this intervention work will necessarily delay the introduction of the new services, but at the time of the consultation we envisaged them starting during the validity of the December 2021 timetable should the work complete between January and April 2022. This approach would not have committed TfWRL or Network Rail to a specific start date while also managing customer and stakeholder expectations.

#### Summary of current position (23 November 2021)

TfWRL and Network Rail have continued to work together on TfWRL's proposals since the start of the industry consultation. The main developments have been:

1. On 24 August GB Railfreight objected to TfWRL's consultation.
2. September's Sale of Access Rights (SOAR) Panel approved the sale of the rights as requested in this application, subject to the following:
  - a. That the rights be granted for 12 months only, with a performance review to take place after 6 months to inform a decision by the SOAR Panel on whether to approve any extension beyond 12 months. *TfWRL accepts this, but we are already preparing a timetable change for December 2022 that seeks to further improve performance, which we would expect to be taken into consideration by SOAR Panel.*
  - b. That the required level crossing interventions are funded and delivered. *Funding has now been secured and the works are being planned, expected to be delivered by May 2022.*
  - c. Resolution by Capacity Planning of all outstanding timetabling issues with TfWRL's requested paths (or TfWRL's agreement not to include those paths in their proposed 2tph Timetable). *This has not been achieved and is the primary reason for TfWRL submitting a s22A application.*
3. On 29 September Network Rail reasserted its position that it cannot accommodate all of TfWRL's requested quantum of track access rights due to conflicts with freight paths, whether in the December 2021 Timetable or the May 2022 Timetable (which are intended to be the same).
4. On 6 October TfW Authority gave TfWRL permission to delay the planned introduction of the 2tph timetable until no later than May 2022, principally due to the slower than anticipated introduction of the Class 230 units and the delivery of the level crossing intervention works.
5. The timetable that is intended to apply from May 2022 is the same as that which was intended to apply from December 2021. Therefore no work by TfWRL or Network Rail's Capacity Planning team has been wasted. This deferment has enabled Network Rail to further test its December 2021 Timetable Offer to TfWRL, with eyes also on the May 2022 Timetable.

The specific timetabling issues that prevent Network Rail from agreeing to sell all of TfWRL's requested quantum are set out in Section 3.2.

**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**

Summary at the time of industry consultation (21 July 2021)

TfWRL is seeking quantum access rights for the additional skip-stop calling pattern only, with no other contractual protections. Wales Route has worked closely with TfWRL on this service improvement but it could not present a SoAR paper to July's SoAR Panel because of outstanding objections from other parts of Network Rail: Freight & National Passenger Operators Route (FNPO); Capacity Planning; and NW&C Route.

Instead Wales Route submitted a Position Paper to the Panel which explained the outstanding objections and included a draft SoAR paper in anticipation of being in a position to submit the SoAR paper to the August SoAR Panel.

TfWRL actively worked with Network Rail on these outstanding objections. To comply with ORR's expectations for the timely submission of access rights applications to them for December 21, TfWRL consulted on a Section 22A application. This avoided the need to wait for the outcome of Network Rail's SoAR Panel on 16 August. However TfWRL stated in its consultation that it would continue to work with Network Rail to overcome their remaining objections to this application, and TfWRL hoped that the August SoAR Panel would authorise a joint application to ORR at which point this Section 22A proposal could be converted into a Section 22 proposal.

At the time of the consultation, TfWRL understood Network Rail's objections to TfWRL's proposals to be as follows. TfWRL responded to these objections; summaries of its responses are given.

**FNPO Route**

FNPO raised three concerns:

1. GBRf's 17<sup>th</sup> Supplemental Agreement as consulted in September 2020: Because Network Rail did not support that application (believing it to be in conflict with TfWRL's proposals), FNPO has advised that it similarly could not support TfWRL's proposed 4<sup>th</sup> Supplemental Agreement in order to maintain a consistent approach to competing Access Rights applications. TfWRL also raised an objection to the proposed departure window of 6V41 as proposed in that application.

TfWRL's response: In May 2021 TfWRL and GBRf met to discuss TfWRL's objection to GBRf's 17<sup>th</sup> Supplemental Agreement. TfWRL put forward its view that a timetabling solution exists that would accommodate TfWRL's commitments and the aspirations of GBRf as stated in its proposed 17<sup>th</sup> Supplemental Agreement (subject to an earlier departure window for 6V41, currently proposed in the 17<sup>th</sup> as a PM peak departure window; such an earlier window has been identified in the Concept Train Plan). Therefore capacity had been demonstrated to exist, which should enable Network Rail to support both parties' capacity requests subject to GBRf's 6V41 departure window being moved later. TfWRL is asking for nothing more than a quantum of rights, and Network Rail will have its full normal flexing rights when constructing the Timetable.

2. Past, current and future TfWRL performance concerns: As part of the internal Network Rail consultation, Wales Route circulated a performance statement prepared by TfWRL. FNPO raised concerns with the performance levels of the existing 1tph service and questioned if there is confidence that performance will improve by moving to 2tph, as contemplated in TfWRL's performance statement. FNPO suggested that if Wales Route and SoAR Panel were to agree to the sale of Rights proposed, then it should be for a limited duration only, to monitor whether performance improves. This would also allow time to know if the outcome of

the Level Crossing risks and Class 230 introduction risks can be mitigated by December 2021.

TfWRL's response: TfWRL has advised that its proposal for 2tph is primarily to facilitate new economic growth in the region, which is a Welsh Government objective. It was recognised that operating more trains could be detrimental to performance, so a timetable was created (every other train being skip-stop, with a journey time reduction of 11 minutes) to mitigate that risk. Because of the longer turnarounds that the skip-stop pattern brings, there will be more recovery time which will reduce the impact of late starts due to late inward workings.

Furthermore, the timetable has been constructed using legacy stock Sectional Running Times (class 15x) which means that we are not reliant on the availability of Class 230 trains from 'day 1'. However, we expect that sufficient class 230 trains will be available to resource at least the all-stations service, where their superior performance will improve the performance on the diagrams with the tightest turnarounds. Therefore we have taken all reasonable practical measures to prevent a degradation in performance.

Network Rail has committed to deliver the Level Crossing interventions by December 2021. We do not agree that it should be expressed as a risk in the draft SoAR paper. Time-limiting the rights would be of no practical benefit in any case: either the Level Crossing interventions will be ready by 'day 1', or they will not. Nor do we agree that approval of TfWRL's proposals should be predicated on the availability of the Class 230s because we are not committing to operate 230s on the new services: 230s are earmarked, but we will retain the right to operate other units including classes 150 and 153 (and which will meet the timetabled class 15x Sectional Running Times).

3. Impact of TfWRL's proposals on capacity and the possible effect on current and future freight services: FNPO has noted that there are a number of existing freight services that operate on the Wrexham-Bidston route as far as the freight terminals at Penyffordd and Dee Marsh. FNPO is concerned that a 2tph passenger service will have a detrimental performance impact on these existing freight services. It has also raised concerns that Hanson Cement wish to run more but shorter trains, in order to cope with the climb out of the sidings onto the mainline. FNPO have also noted the environmental benefits of moving cement by rail rather than road; proposals to enhance the freight facility to enable faster entries and exits; and Welsh Government's general support for rail freight.

TfWRL's response: The current 1tph timetable is poor performing because of the *structure* of the timetable with minimal turnaround time at either end, and the requirement for freight trains to marshal on the mainline at Penyffordd, occupying the line for over 30 minutes per move. The proposed 2tph timetable with alternate skip-stop / all stations services addresses this issue.

We support proposals for improved facilities within Hanson's terminal as a way of improving the efficient use of the network. We also support the carriage of this traffic by rail. To facilitate that, we have designed our timetable with windows for freight access to and from Penyffordd Cement Works outside of the core passenger traffic hours (7am – 7pm). We are also happy to flex our services to accommodate light engine moves and Steel traffic to and from Dee Marsh, and the skip-stop pattern facilitates this. We have been in dialogue with the FOCs concerned to do precisely this, as part of the Wales ESG process. Network Rail's Future Services Integration (FSI) team have demonstrated that the quantum of rights sought by applicants in 'live' Track Access applications and consultations can be accommodated.

### **Capacity Planning**

Capacity Planning have explained that they do not support TfWRL's full proposals. Instead they will only support 3 fewer rights each way per day than TfWRL is requesting, on the grounds that this will allow them to accommodate freight services.

TfWRL understands that Capacity Planning do not believe that it will be possible for them to accommodate a 2tph passenger service in the Weekday evening peak that honours the access rights that both TfWRL is requesting through this proposed 4<sup>th</sup> Supplemental Agreement and that GBRf has consulted through its proposed 17<sup>th</sup> Supplemental Agreement (a Section 22A proposal). Therefore they have indicated that they cannot support 2tph in this time period (a shortfall to TfWRL of 1 right each way). However this position fails to recognise more recent work where Future Services Integration (FSI) have found a solution for the particular freight right sought, which would demonstrate a better use of network capacity by being pathed via a more direct route to its destination.

We have recently been made aware that Network Rail has added two additional freight schedules to/from Penyffordd Cement Works in the May 21 Timetable, following Train Operator Variation Request/s. We are not aware if there is any intention for the operator to seek access rights for these trains. Capacity Planning have indicated that the new paths are of 'significant national importance' but we are unclear how this fact would have any contractual bearing on our proposals. Nevertheless they have stated that they cannot support 2tph in these time periods (a shortfall to TfWRL of 2 rights each way).

### **NW&C Route**

NW&C initially supported Wales Route's internal consultation but retracted its support, stating reliability concerns with the Class 230s. This followed a small fire in a diesel generator set ('gen set') of unit 230008 whilst undertaking a Driver Training run. The fire was extinguished by the onboard fire bottles and the unit self-recovered to depot. Vivarail is investigating the cause and early information suggests that the circumstances were unique; but also that the investigation will promote a greater understanding of the units' behaviour.

While TfWRL does not believe that any matters relating to the planned introduction of the Class 230s are relevant to this application, we have nevertheless provided additional information to NW&C about the status of Vivarail's initial investigation, and we will share full details with them once the investigation is complete.

We have also sought to explain to NW&C that this application is for quantum-only rights to Passenger Train Slots in the Working Timetable using any of TfWRL's Specified Equipment that can achieve a Class 150 Timing Load. Therefore the proposal is deliberately *not* linked to the planned introduction to passenger service of Class 230s on this route: we are not requesting Class 230 Timing Loads in Table 2.1; we have not bid to use Class 230 Sectional Running Times in the December 21 Timetable, and we are not seeking any other contractual protections such as specific service intervals or maximum journey times. This retains full flexibility for other units to be used, such as 150s and 153s, and still adhere to the timetable.

### **Summary of current position (23 November 2021)**

The most important developments since the start of the industry consultation have been:

1. SOAR Panel's decision to approval the sale of the access rights (subject to caveats which are outlined below);
2. TfWRL's confirmation that it is now seeking to introduce the 2tph Timetable no later than May 2022 (not December 2021); and
3. Capacity Planning's confirmation that it cannot offer to TfWRL a Timetable that includes all of our requested paths, either in the December 2021 Timetable or (by inference) in the May 2022 Timetable.

SOAR Panel's decision to approve the sale of the access rights (subject to caveats) removed the specific objections from different parts of Network Rail. Instead Network Rail and TfWRL have focused on resolving the caveats which are:

- a. That the rights be granted for 12 months only, with a performance review to take place after 6 months to inform a decision by the SOAR Panel on whether to approve any extension beyond 12 months. *TfWRL accepts this, but we are already preparing a timetable change for December 2022 that seeks to further improve performance, which we would expect to be taken into consideration by SOAR Panel.*
- b. That the required level crossing interventions are funded and delivered. Funding has now been secured and the works are being planned, expected to be delivered by May 2022.
- c. Resolution by Capacity Planning of all outstanding timetabling issues with TfWRL's requested paths (or TfWRL's agreement not to include those paths in their proposed 2tph Timetable). *This has not been achieved and is the primary reason for TfWRL submitting a s22A application.*

Because of Capacity Planning's confirmation that it cannot offer to TfWRL a Timetable that includes all of our requested paths, Network Rail is not in a position to resolve SOAR Panel's caveat on this issue. Therefore it is not able to proceed with a s22 application for access rights.

The specific timetabling issues that prevent Network Rail from agreeing to sell all of TfWRL's requested quantum are attached to this application.

**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**

None.

#### **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**

A 2tph service on this route on Weekdays and Saturdays from December 2021 (now May 2022) is required by Welsh Government through a committed obligation in TfWRL's Rail Services Agreement with TfW (Authority). This is an important step in improving the rail offering in North Wales as part of the North Wales Metro and will benefit commuters and leisure travellers alike.

This service uplift aligns with both the Welsh Transport Plan objectives, and objectives of regional stakeholders on both sides of the English and Welsh border, and supports economic growth by improving poor transport links between Wrexham, the industrial centres on Deeside, Neston on the Wirral, and the Liverpool City Region. It is strongly supported by local stakeholders.



While a skip-stop calling pattern for the additional hourly service is not ideal for all passengers, it is beneficial for the majority of existing passengers, and is the best approach to allow a 2tph service to be timetabled which is a significant benefit overall.

There are also incidental performance benefits. The proposed increase from 1tph to 2tph, with the additional hourly service being skip-stop, will provide more turnaround time for the service. This will aid service recovery because late running inbound trains will not have such an impact on outbound trains. Similarly, the Class 230s that will operate on this route will deliver improved timetable adherence. These expected performance benefits are not the primary reason for the proposed 2tph service but are still to be welcomed.

Proposed expression of access rights

TfWRL is proposing to add additional firm rights to Table 2.1 of Schedule 5 by the creation of a 'Fast' (skip-stop) service description. The Fast services will have a limited calling pattern in Table 4.1 (from Wrexham Central to Bidston this will be Wrexham General, Gwersyllt, Buckley, Shotton, Neston, Heswall and Upton, and vice versa). There is no change to the existing services' Calling Pattern which is all stations.

The proposed extracts from Table 2.1 below will be the same for both Winter and Summer versions. Yellow highlight is new/amended.

*Table 2.1 extract: Existing*

From	To	Via	Description	TSC	Timing Load	Total Weekday	Saturday	Sunday
Bidston	Wrexham Central	Penyffordd	7.2.1	22342000	150	13	13	8
Wrexham Central	Bidston	Penyffordd	7.2.2	22342000	150	13	13	8
Wrexham General	Wrexham Central	-	7.2.3	22342000	150	1	1	0
Wrexham General	Bidston	Penyffordd	7.2.4	22342000	150	1	1	2
Bidston	Wrexham General	Penyffordd	7.2.5	22342000	150	1	1	2

*Table 2.1 extract: Proposed*

From	To	Via	Description	TSC	Timing Load	Total Weekday	Saturday	Sunday
Bidston	Wrexham Central	Penyffordd	7.2.1	22342000	150	15	15	8
Bidston	Wrexham Central	Penyffordd	7.2.1.1 Fast	22342000	150	12	12	0
Wrexham Central	Bidston	Penyffordd	7.2.2	22342000	150	13	13	8
Wrexham Central	Bidston	Penyffordd	7.2.2.1 Fast	22342000	150	12	12	0
Wrexham General	Wrexham Central	-	7.2.3	22342000	150	0	0	0
Wrexham General	Bidston	Penyffordd	7.2.4	22342000	150	1	1	2
Wrexham General	Bidston	Penyffordd	7.2.4.1 Fast	22342000	150	2	2	0

Bidston	Wrexham General	Penyffordd	7.2.5	22342000	150	2	2	2
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**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**

**Capacity**

TfWRL is satisfied that there is enough network capacity for the services in the proposal, and Network Rail have confirmed the same at various times since KeolisAmey's 2017 bid for the W&B concession.

*2017-18*

In order to include timetable increments in their bids, participants in the 2017 procurement for the W&B concession were obliged to seek the approval of Network Rail, to ensure there was sufficient capacity for their proposals. NR's Capability and Capacity Analysis (C&CA) team confirmed that in the case of the Wrexham – Bidston route that 'Bidder comments noted, especially regarding the proposed differing stopping patterns. C&CA have looked further into train paths between Wrexham and Bidston for the full duration of the day. While the proposal still appears feasible at hours when no freight services are running, existing freight paths will require careful consideration given the constraints of the need to fit in with freight and Merseyrail services at Bidston (so on the opposite half hour to the existing services) plus the 2 long block sections south of Dee Marsh.'

In a further stage of the assessment, C&CA said 'The comments regarding freight traffic and a 2tph service in the report supplied by the bidder are noted and reflect a similar piece of analysis undertaken recently by the C and CA team. In theory 2tph can operate in most off-peak hours without impacting on freight services but a skip stop service pattern for the second train would assist in accommodating the freight services.'

Accordingly, KeolisAmey designed a timetable with a skip-stop pattern to widen the interval between trains at the Wrexham end of the line, specifically to accommodate freight paths; it also allowed for a 70-minute interval between passenger trains during the mid-evening (~19:00) to permit the manoeuvre at Penyffordd into and out of Hanson's Cement Works.

This timetable was created by KeolisAmey in its bid for the concession, contracted in the 2018 Grant Agreement, and the 5x class 230 trains procured on the basis of this positive assessment.

*2018-19*

The Concept Train Plan developed as part of the December 2022 Event Steering Group, the Wrexham-Bidston Timetable of which is intended to equally apply to December 2021, has identified compliant paths for 2tph Wrexham-Bidston and any declared freight paths for which rights exist or are sought.

**Performance**

Performance of the current 1tph service is poor; 'on time to 3 minutes' adherence averages around 30-40%, which improved to 75% during the Covid-19 pandemic: this has demonstrated that even with very low passenger numbers it is not possible to achieve better than 75% 'on time' performance.

TfWRL and Network Rail have worked together to highlight the variations between the actual running time and the timetable. The timetable between Wrexham and Bidston is about 17 seconds deficient in running time with a Class 150 (discounting the dwell times) which makes it very difficult to recover the service if a delay occurs. However it should be noted that delays on this route have little scope for perpetuating to other services or other TOCs, as there is minimal interaction with other operators.

Against this backdrop of poor performance, KeolisAmey's bid timetable, subsequently adopted and adapted by Network Rail's Future Services (FSI) team, features a skip-stop service pattern for the

additional services; and TfW (Authority) procured new rolling stock (Class 230s) specifically, and exclusively, for this service.

Skip-stop service pattern: This service will have more recovery time than the current timetable, with every other train being skip-stop, which will allow a greater level of delay to be absorbed within the timetable.

Class 230s are ideally suited to this route, having superior acceleration, sanding equipment and PRM-TSI compliant metro-configuration passenger accommodation for speedy boarding and alighting. While TfWRL is not seeking Class 230-specific rights, it does intend to use these trains on the Wrexham-Bidston line which has a (relatively) low linespeed and frequent station stops. To that end TfWRL plans to add Class 230s to its list of Specified Equipment through a future Supplemental Agreement.

TfWRL is not aware of any implications of one additional passenger train per hour on Network Rail's maintenance and renewal activities. During the daytime, the time between trains is currently a maximum of just 1 hour (and only in the hours where freight does not operate). TfWRL understands that access secured through the Engineering Access Statement provides adequate opportunities for 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**

None.

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

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**

No changes are required specifically for this application. TfWRL's Class 230s that are intended for the Wrexham-Bidston route will be added as Specified Equipment through a later Supplemental Agreement, but this is not a prerequisite for the rights sought in Schedule 5 as they are specified with Class 150 Timing Loads.

**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**

The proposed services are a committed obligation under the Rail Services Agreement between TfW (Authority) and TfWRL.

**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**

The proposed services are subject to financial support in accordance with the terms of the Rail Services Agreement between TfW (Authority) and TfWRL.

**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**

Transport Focus has been consulted.

**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 relevant RUSs are the Freight RUS, North West RUS and Wales RUS. TfWRL believes that the proposal is consistent with those RUSs and subsequent Network Studies.

## 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**

None that are specific to this application.

**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**

N/A.

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

Yes.

**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**

None.

## 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**

None. The Level Crossings on the line have been risk-assessed for 2tph and some require interventions as a result, but these are not deemed to be enhancements and no Network Change is required.

**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**

N/A.

## 7. Other

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

None.

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

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

The application comprises the following.

1. This application form.
2. Draft 4<sup>th</sup> Supplemental Agreement (Word).
3. Responses to industry consultation (Word) containing:
  - a. GBRf's response, and TfWRL's reply
  - b. Transport Focus' response
  - c. GWR's response
4. Details of the timetabling issues from Network Rail (pdf): Network Rail statement on TfWRL's Dec 21 proposals (which are the same proposals as in TfWRL's May 22 Bid)
5. Stakeholder support for TfWRL's proposals (pdf)

There is no other relevant information. The whole of the proposal has been submitted with this application and there are no side letters or other documents which affect it.

**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 one calendar month 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**

TfWRL conducted the consultation which ran for 1 calendar month and which was sent to the following consultees:

alex.bateman@northernrailway.co.uk; TrackAccessConsultations@northernrailway.co.uk;  
nicola.eyre@northernrailway.co.uk; Michael.Webb@eastmidlandstrains.co.uk;  
lanita.masi@eastmidlandstrains.co.uk; Lisa.Angus@eastmidlandstrains.co.uk;  
robert.holder@gwr.com; Chris.hassall@firstgroup.com; ZHands@MERSEYRAIL.org;  
allandoyle@merseyrail.org; Magnus.conn@serco.com; Georgia.Ehrmann@avantiwestcoast.co.uk;  
Sue.Rhymes@avantiwestcoast.co.uk; Alex.drewery@avantiwestcoast.co.uk;  
Navdeep.Brahmbhatt@wmtrains.co.uk; trackaccess@crosscountrytrains.co.uk; plewin@ffwhr.com;  
iy@granduniontrains.com; track.access@alliancerail.co.uk; alex.lawrie@go-op.coop;  
premetro@aol.com; Transport.advisory@marybonar.com; Sue.rhymes@avantiwestcoast.co.uk;  
chris.connelly@drsl.co.uk; gary.brownell@drsl.co.uk; robert.holder@gwr.com;  
andy.moyle@gbrailfreight.com; ian.kapur@gbrailfreight.com; Jason.Bird@gbrailfreight.com;  
sean.english@grandcentralrail.com; chris.brandon@grandcentralrail.com;  
chris.hanks@grandcentralrail.com; nick.gibbons@lstoc.co.uk; Nigel.Oatway@deutschebahn.com;  
wotho@aol.com; greg.march@railopsgroup.co.uk; office@michaelwhitehouse.co;  
simon.ball@colasrail.com; john.carpenter@colasrail.com;  
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Agrainger@dcrail.com; chris.connelly@drsl.co.uk; gary.brownell@drsl.co.uk;  
chris.matthews@gwrr.co.uk; peter.graham@gwrr.co.uk; chris.matthews@gwrr.co.uk;  
peter.graham@gwrr.co.uk; andy.moyle@gbrailfreight.com; ian.kapur@gbrailfreight.com;  
david.macbean@hansonhallrail.co.uk; dryder@harsco.com; ross.white@loram.co.uk;  
greg.march@railopsgroup.co.uk; ben.mason@slcoperations.com;  
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Richard.Clarke@scsrailways.co.uk; cgeldard@geldardconsulting.com; Chris.swan@tarmac.com;  
Geoff.Lippitt@pdports.co.uk; woorm@hpuk.co.uk; j.bailey@maritimetransport.com;  
Robert.Fickling@tfgm.com; Frank.Rogers@merseytravel.gov.uk;  
wayne.menzies@merseytravel.gov.uk; david.jones@merseytravel.gov.uk;  
petersargent@centro.org.uk; PassengerServices\_Access&Operations@dft.gov.uk;  
Rachel.Correia@dft.gov.uk; jonathan.rodgers@orr.gov.uk; gordon.herbert@orr.gov.uk;  
track.access@orr.gov.uk; maggie@rfg.org.uk; Peter.Craig@networkrail.co.uk;  
Christopher.Meadows@networkrail.co.uk; RegulatoryReformNewTAC/SAInfo@networkrail.co.uk;  
john.sears@transportfocus.org.uk; James.Arden@gov.wales; Claire.Hickman@networkrail.co.uk;  
[amanda.newton@networkrail.co.uk](mailto:amanda.newton@networkrail.co.uk)



The following parties responded:

Transport Focus, 27 July. No objections raised.

GWR, 23 August. No objections raised.

GB Railfreight, 24 August. Objections raised (see 8.3).

**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.

None.

**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.

GB Railfreight ("GBRf") was the only party to respond with substantive comments. It objected to the proposal. This objection is against a backdrop of much dialogue between Network Rail, TfWRL GBRf as part of the Wales Route ESG. A meeting was held on 24 August between Network Rail, TfWRL and GBRf which helped all parties to understand their respective positions. GBRf's response followed that meeting.

GBRf raised the following concerns:

1. TfWRL's proposal contains competing access rights clashes with GBRf's existing cement services for which GBRf is currently seeking firm access rights, specifically 6V41 and 6M42
2. In addition to the issues with these particular cement services on the Wrexham-Bidston route, GBRf's customer (Hanson Cement) has aspirations to increase the number of cement services out of Penyffordd Cement Works
3. GBRf is really concerned that there will also be no room for growth of services to/from Penyffordd Cement Works should these rights be granted, especially without any infrastructure enhancements on the route.

TfWRL cannot resolve these issues. Capacity Planning have confirmed that they cannot reconcile the competing requirements of TfWRL and GBRf.

## 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 ..... Chris Dellard..... Date .....23 November 2021...

Name (in caps) ...CHRIS DELLARD..... Job title ...Head of Access Planning...

For (company) .....Transport for Wales Rail Ltd .....

## 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  
25 Cabot Square  
London  
E14 4QZ

or

[Track.access@orr.gov.uk](mailto:Track.access@orr.gov.uk)