

## APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT 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.

Use this form to apply to the Office of Rail and Road (ORR) for:

- Directions under section 17 of *The Railways Act 1993* (the Act) for a new track access contract. This is for companies who want to use Network Rail's network where the parties are not able (for whatever reason) to reach agreement.
- Approval for a new track access contract under section 18 of the Act. This is for use where terms have been agreed by the parties.
- Approval of a proposed amendment to an existing track access contract, agreed by both parties, under section 22 of the Act.
- Directions under section 22A of the Act for an amendment to an existing track access contract. This is for someone seeking an amendment to an existing track access contract to permit more extensive use of the railway facility if the parties are not able, for whatever reason, to reach agreement.

The form 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.

Network Rail should normally take responsibility for the pre-application consultation, where the terms are agreed. Before a consultation is made, complete this form up to the end of section 8. You should fill in the rest of the form after the consultation and before applying to ORR.

If, in the case of section 17 and 22A applications, the beneficiary and Network Rail have been unable to agree terms, the beneficiary should:

- (a) ask Network Rail to conduct a pre-application consultation in line with the code of practice; or
- (b) conduct a pre-application consultation itself, in line with the code of practice; or
- (c) submit the application to ORR and ask ORR to conduct the consultation, in which case, please complete this form in full before submitting it to us.

We are happy to talk to you informally before you apply. Please contact us at [Track.Access@orr.gov.uk](mailto:Track.Access@orr.gov.uk). You should use our current [model freight track access contract](#) as your starting point. 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 templates 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 Facility owner:

Network Rail Infrastructure Limited ("Network Rail")

### 1.2 Beneficiary Company:

DB Cargo (UK) Ltd ("DB Cargo")

### 1.3 With which of the regions does this application interact?

Region:	Southern <input checked="" type="checkbox"/>	Eastern <input type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input checked="" type="checkbox"/>	Scotland's Railway <input type="checkbox"/>
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### 1.4 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:						84A	
Current contract date:						11 December 2026	
Current contract expiry date:						PCD 2026	

### 1.5 Executive summary of the proposed contract or amendment: (Brief & High Level)

The Rights Table in Schedule 5 of the Track Access Contract (Freight Services) dated 11 December 2016 between the Parties ("the Contract") shall be amended by updating Service Group 6090 (flows 8, 12 and 13) with the details listed in Annex 1 of the Supplemental Agreement to be consistent with the December 2023 timetable.

Proposed commencement date:	Date of ORR's approval
Expiry date:	PCD 2026
Date Approved at SOAR	n/a
If rights currently running as TOVRs when did they commence?	n/a

### 1.6 Industry consultation:

Who carried out the consultation?	
Consultation start date:	Consultation end date:
Not carried out <input checked="" type="checkbox"/>	

### 1.7 Applicant details

<p>Network Rail Infrastructure Limited ("Network Rail")</p> <p><b>Contact individual:</b> Ian Bartlett <b>Job title:</b> Customer Manager <b>Telephone number:</b> [REDACTED] <b>E-mail address:</b> [REDACTED]</p> <p><b>Address:</b> Floor 3, Waterloo General Offices London SE1 8SW</p>	<p>DB Cargo (UK) Ltd ("DB Cargo")</p> <p><b>Contact individual:</b> Quentin Hedderly <b>Job title:</b> Regulatory Specialist <b>Telephone number:</b> [REDACTED] <b>E-mail address:</b> [REDACTED]</p> <p><b>Address:</b> Lakeside Business Park Doncaster South Yorkshire DN4 5PN</p>
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### 1.8 Date of application to ORR:

20 May 2024

**1.9 Checklist of documents attached to the application form:**

- Proposed new contract or supplemental agreement
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting evidence such as performance improvement plans or modelling exercises.
- Other supporting documents, side letters or collateral agreements (please list):


**1.10 Confidential redactions:** If there is any information you want us to exclude from publication please list it here and provide full reasons for the redactions. Please provide a redacted version of the document(s) that we can publish.

n/a
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**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:

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**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.

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**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).

## Commercial Justification for Access Rights

### BMW traffic

This is a commercial justification to support the rights for BMW automotive traffic between BMW Oxford Rail Terminal and Southampton Eastern Docks. This also includes associated moves for fuelling as below:

#### BMW Oxford Rail Terminal – Southampton Eastern Docks

- 4O39 BMW Oxford Rail Terminal – Southampton Eastern Docks
- 4V39 Southampton Eastern Docks - BMW Oxford Rail Terminal
- 0A40 BMW Oxford Rail Terminal – Didcot
- 4A40 BMW Oxford Rail Terminal – Didcot
- 4O39 BMW Oxford Rail Terminal - Southampton Eastern Docks
- 4V44 Southampton Eastern Docks - BMW Oxford Rail Terminal
- 0A44 BMW Oxford Rail Terminal – Didcot

### CUSTOMER AND MARKET

BMW Group is renowned for its products and technology, but also the company's history, written by inventors, pioneers and brilliant designers. Today, the BMW Group, with its 31 production and assembly facilities in 15 countries as well as a global sales network, is the world's leading manufacturer of premium automobiles and motorcycles, and provider of premium financial and mobility services.

One of the flagship plants of the BMW Group is the site at Oxford, where it manufactures one of the most popular small cars in the world; the BMW Mini range. The plant started production of the range in 2001 and has produced over 3 million vehicles at the Cowley Oxford Plant since inception.

This iconic car is desired globally and shipped worldwide from the port at Southampton, and we at DB Cargo are proud to be a partner in the supply chain of this marquee company hauling the vehicles from Oxford to the port at Southampton's Eastern Docks.

Due to the 'JIT' (just-in-time) nature of the sector, DBC UK must quickly adapt its base plan to support the fluid requirements of BMW, notably for new vehicle registrations and plant shutdowns. Therefore, it's vital DBC UK retains capacity, so that we can continue to support end customer requirements.

### CUSTOMER AND BUSINESS DEVELOPMENT

DBC UK has an excellent and long-standing relationship with BMW Group, where we deliver up to 9 trains per week. The contract was renewed in 2023, with a clear rail commitment. Discussions continue to develop our rail freight offering and grow the number of services we operate today.

When services are cancelled by DBC UK or Network Rail, BMW Group's end customers will fail to meet critical timelines. This will have a negative effect on the reputation of both our companies, as well as a financial impact.

Our wagon maintenance team have endeavoured to keep the WIA wagon fleet on the track delivering high levels of availability. This being part of the reason we have been able to deliver as expected when expected.

Excellent work from our planning team in conjunction with BMW has identified efficient paths that support the Oxford Plants output and delivery to the port. This is demonstrated by our strong performance figures for all BMW traffic into Southampton.

## LOCATIONAL DEVELOPMENT

### ***BMW Oxford Rail Terminal***

Significant investment has been made at the plant to improve safety, security and infrastructure. All parties played a part working collaboratively to make the improvements to the site.

### **SUMMARY**

In summary, one hour 'window' rights are required to support this traffic due to the significance the automotive industry has on the wider economy, and to support end customers in this challenging time. The investment DBC UK, ABP, SCH and BMW Group have made to demonstrate our commitment to rail freight logistics and how much we value our automotive network.

It's clear to us BMW Group want to continue using a rail product long into the future, sticking with a system that has proven results.

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### **STVA traffic**

This is a commercial justification to support the rights for STVA traffic between Southampton and Halewood; also includes associated moves for fuelling as below:

Southampton – Halewood

- 0F46 Arpley Sidings – Halewood (Jaguar)
- 6O46 Halewood (Jaguar) – Southampton Eastern Docks
- 0B46 Southampton Eastern Docks – Eastleigh
- 0B48 Eastleigh – Southampton Eastern Docks
- 6M48 Southampton Eastern Docks – Halewood (Jaguar)
- 0F48 Halewood (Jaguar) – Arpley Sidings
- 6B46 Southampton Eastern Docks – Eastleigh Arlington

### ***Customer and Market***

STVA Group has been operating since 1950. Now part of Groupe CAT, STVA is a leading player in the automotive finished vehicles international logistics market. STVA and its 2,500 employees across more than 30 sites, design and supply industrial or customized logistics services to all levels of the supply chain.

The UK has the highest productivity of major European car producers, a world-leading motorsport sector, and a huge range of specialist engineering consultancies, putting it at the cutting edge of the automotive industry. Once the largest exporter of cars in the world, automobile brands originating in the UK still hold prestige around the world, even if many are currently owned by foreign companies. Due to the 'JIT' (just-in-time) nature of the sector, DBC UK often must rapidly adapt its base plan to support the fluid requirements of the OEM's, notably for new vehicle registrations and plant shutdowns. Therefore, it's vital DBC UK retains capacity, so that we can continue to support end customer requirements.

### ***Customer and Business Development***

DBC UK has an excellent and long-standing relationship with STVA UK Limited. Discussions are ongoing to develop our rail freight offering further and grow the number of services we jointly operate today, which include International services through the Channel Tunnel connecting the European Automotive market. When services are cancelled by DBC UK or Network Rail, STVA UK Limited's end customers will fail to meet critical timelines. This will have a negative effect on the reputation of both our companies as well as a financial impact.

### ***Traffic Locations***



The Train Slots are required to operate at the current times to;

- Fit around the loading/discharging staff shift patterns
- Fit around the other services booked in and out of the terminals
- Ensure STVA meet the timescale to deliver the product to their end customers

Any changes could potentially mean:

- A change to all customers operations which could have a significant impact on their resources and delivery schedule
- A change to DBC UK resources which could have an impact on our resources availability and service profitability
- Disruption to the site's operations affecting not only STVA & DBC UK but also other third parties including rail services

### **Warrington**

Warrington Arpley is also being considered to load and unload a potential new service, to support the core working of the Jaguar Land Rover train and help sustain its viability against road haulage competition.

### **Summary**

In summary, one hour 'window' rights are required to support this traffic due to the significance the automotive industry has on the wider economy, and to support end customers. The investment DBC UK and STVA UK Limited have made demonstrates our commitment to rail freight logistics and how much we value our automotive network. In order to assist potential new business, we must demonstrate that we can deliver the current services reliably and having the relevant capacity in place will be key to this success.

**3.2 Capacity considerations:** Please detail the steps taken by the parties to satisfy themselves that there is sufficient network capacity for the services in the proposal. Include details on all relevant capacity considerations, including but not limited to track and power supply traction. Will the proposed Rights operate over an area subject to a **Declaration of Congested Infrastructure**, or will the capacity requirement result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code)

n/a

**3.3 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).

n/a

**3.4 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](#).

n/a

**3.5 Performance:** Are there any implications for overall 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.

A Power BI performance report covering all services within the Eighty Fourth supplemental has been shared with the relevant Regions and any queries have been successfully resolved as part of internal consultation process.

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

n/a

**3.7 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 had been approved through Internal Consultation (SoAR Panel) at Network Rail as the Eighty Fourth supplemental. It is now progressing simultaneously through Industry consultation but insufficient time has been available to complete this ahead of the ORR deadline to receive applications of 20<sup>th</sup> May 2024.

**3.8 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.

n/a

- 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).

n/a

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

n/a

### 3.9 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.

Up-to-date version is on the ORR website

## 4. The expression of access rights

**4.1 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.

Please see attached marked up **Schedule 5 table** indicating requested changes. These are summarised below:

### New rights

		Origin	Destination
<b>SG 6090</b>			
6B48	FO	EASTLEIGH ARLINGTON (ZG)	SOUTHAMPTON EASTERN DOCKS
4V44	SO - Y	SOUTHAMPTON EASTERN DOCKS	MORRIS COWLEY MAT

### Amended rights

		Origin	Destination
<b>SG 6090</b>			
4A40	<del>SX</del> FO	MORRIS COWLEY MAT	DIDCOT T.C.
6F42	<del>WO</del> TO	<del>WARRINGTON</del> ARPLEY SIDINGS	GARSTON (SPEKE) T.C.
6F82	<del>WO</del> TO	GARSTON (SPEKE) T.C.	HALEWOOD (JAGUAR CARS)
6F49	<del>WO</del> TO	HALEWOOD (JAGUAR CARS)	<del>WARRINGTON</del> ARPLEY SIDINGS
4O39	SX	MORRIS COWLEY MAT	SOUTHAMPTON EASTERN DOCKS
<del>4O40</del> 4O39	SO	MORRIS COWLEY MAT	SOUTHAMPTON EASTERN DOCKS
4V39	SX	SOUTHAMPTON EASTERN DOCKS	MORRIS COWLEY MAT

**4.2 Firm rights:** Do the Firm Rights in the proposal contract relate to service freight haulage contracts which you hold or will hold? If so, how? How does the duration of these haulage contracts compare with the duration of the proposed track access contract?

DB Cargo holds freight haulage contracts for traffic moving in the Train Slots for which it is seeking Firm Rights. The contracts do not extend beyond DB Cargo's existing Track Access contract (expiry PCD 2026), DB Cargo will enter into discussions with regard to new contracts prior to expiry of the existing terms.



**4.3 Contingent Rights:** Please set out the extent to which you expect to use the Contingent Rights in the application. In particular, please state whether the proposed rights are seasonal (eg 3 months each year) or occasional (eg MO, SX, etc)..

n/a

**4.4 Window size:** Please set out the reasons for the origin and destination window sizes used in the Rights Table in Schedule 5.

Please see the Commercial Justifications set out in 3.1 above

**4.5 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.

n/a

## 6. Incentives

**6.1 Train operator performance:** please describe any planned projects associated with the operation of the proposed services aimed at improving your performance.

n/a

**6.2 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.

n/a

**6.3 Restrictions of use:** set out and explain the reasons for any changes from the Restrictions of Use regime in the model freight track access contract (Schedule 4)

n/a

## 7. Enhancement

**7.1 Enhancement details:** Please provide details of any relevant enhancement schemes. Where the proposal delivers part of, or the associated services are subject to, a network enhancement, please summarise the outputs and timescales of the scheme and explain the extent to which the Part G Network Change procedure has been completed.

n/a

**7.2 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.

n/a

## 8. Associated access contracts

**8.1 Associated applications to ORR:** please state whether this application is being made in parallel with, or relates to, any other previous, current or forthcoming applications to ORR (e.g. in respect of track access, 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 details.

This application had been approved through Internal Consultation (SoAR Panel) at Network Rail as the Eighty Fourth supplemental. It is now progressing simultaneously through Industry Consultation but insufficient time has been available to complete this ahead of the ORR deadline to receive applications of 20<sup>th</sup> May 2024.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

The following applications are being made simultaneously as part of this process by DB Cargo and including the following:

72a, 73a, 79a, 81a, 83a, 84a, 85a, 86a, 87a, 88a, 91a, 92a

**8.2 Unregulated access:** please comment on whether any contracts are being negotiated for access to a facility adjoining Network Rail's network (e.g. to a freight light maintenance depot), including where ORR's approval is not required. For more information, see [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#). (This is relevant in the context of clause 6.4 of the model contract.)

n/a

## 9. Pre-application consultation

### 9.1 The consultation:

If consultation has not been carried out, explain why not.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

If a consultation has been carried out please:

- state who conducted the consultation;
- list all train operators 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 the consultation was concluded some time ago, please explain why you consider it is still valid.
- have there been any material changes since consultation that could affect the validity of the responses received?
- please list any information that you have redacted from any documentation sent to consultees and the reasons for the redactions.

n/a

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

n/a

**9.3 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. Include details of steps taken to resolve the dispute such as meetings or counter offers and provide copies of correspondence where available.

n/a

**10 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.*

**In the case of agreed applications under section 18 or 22, the facility owner should fill in the 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 ..... Date 16 MAY 2024  
Name (in caps) ANDREA ROSSI Job title CHIEF EXECUTIVE OFFICER  
For (company) DB CARGO (UK) LIMITED

For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here:

Signed ..... Date.....  
Name (in caps) ..... Job title .....  
For (company) .....

**11. Submission**

**11.1 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).

**11.2 Where to send it:**

Freight Track Access Manager Email: [track.access@orr.gov.uk](mailto:track.access@orr.gov.uk)