



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. 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 ("DBC")

1.3 With which of the regions does this application interact?

Region:	Southern <input type="checkbox"/>	Eastern <input checked="" 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:						86A	
Current contract date:						11 December 2016	
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 1614 (flows 3 and 4) and 4075 (flows 13 and 14) with the details listed in Annex 1 of the Supplemental Agreement to be consistent with the December 2023 timetable.

All requests in this supplemental already have either Firm or Contingent Rights. Those which have Contingent Rights were seeking Firm Rights in DBC's 58th Supplemental Agreement (approved by SoAR on 27 March 2023) but were made Contingent at Anglia routes request due to the then planned GEML ESG which was subsequently cancelled. Given the time since the approval of the 58th Supplemental Agreement, some further changes are also requested to reflect current operations of these Rights.

Details of the changes can be found in the accompanying marked up **Schedule 5 table**.

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

Network Rail Infrastructure Limited ("Network Rail")	DB Cargo (UK) Ltd ("DBC")
Contact individual: Ian Bartlett	Contact individual: Quentin Hedderly
Job title: Customer Manager	Job title: Regulatory Specialist
Telephone number: [REDACTED]	Telephone number: [REDACTED]
E-mail address: [REDACTED]	E-mail address: [REDACTED]

<p>Address: Floor 3, Waterloo General Offices London SE1 8SW</p>	<p>Address: 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

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).

Commercial Justification for Access Rights

This 86A supplemental seeks to convert rights which were offered as part of the DBC 58th supplemental which was approved by SoAR Panel at its meeting on 27 March 2023 and agreed by ORR on 6th July 2023. This Commercial Justification updates that provided for the 58th supplemental.

FCC Recycling

Commercial Justification for Access Rights

This a commercial justification for one-hour window rights on freight traffic hauled by DBC on behalf of FCC environment for the following services;

- Ripple Lane to Tinsley
- Cricklewood to Peterborough

A stable train plan is seen as critical to allow the services to be discharged in their allocated offloading slots ensuring the train meets the allocated departure times due to capacity constraints in the London area. For FCC and DBC this maybe jeopardised if train slots associated with this train plan are subject to significant flex from one timetable to the next. Due to terminal restrictions one hour “window” rights are critical to daily operation and DBC’s ability to meet contracted deliverables.

Customer and market

FCC is one of the UK’s leading waste and resource management companies, providing a range of services from business and municipal waste collection to recycling and processing, plus the generating of green energy from waste.

FCC’s approach is to minimise the amount of waste that ends up in landfill by transforming it into valuable resources.

Customer and business development

DBC has provided dedicated locomotives, drivers and ground staff to operate the FCC Spoil and recycling traffic. DBC has invested in dedicated open box and flat bed wagon sets to operate on all current traffic, generating a revenue in excess £5.5 million.

Peterborough and Tinsley are sites which FCC have developed to run spoil services diverted owing to construction of HS2. Operations at the FCC waste management site at Calvert have temporarily ceased in order to enable delivery of the HS2 project. DBC has invested in staff training to operate the alternative terminals and provided offloading equipment.

Failure of DBC to perform and meet its contracted obligations may result in DBC having to compensate FCC by paying cancellation penalties.

Locational Development

Locations - Barking Ripple Lane H Group Sidings, Tinsley Sidings, Cricklewood, Peterborough

Operations and Constraints

Due to environmental constraints, DBC are limited to strict operating times at Barking Ripple Lane H Group Sidings (Barking Euro), Tinsley and Cricklewood. Pathing is constrained particularly in the South-east. FCC have limited capacity and need to adhere to tight loading windows. In addition, due to limited pathing options with dedicated wagon sets coupled with restrictions of receiving sites, the operation needs to be run to a right time policy. Cricklewood is the only suitable spoil loading site in North West London and dispatches around 250,000t per year. Transport by rail prevents the impact of road vehicles throughout the London.

The new fatigue diagramming rules that came into place in December 2020 have shortened the maximum amount of time a driver working for DBC can work on a nightshift, meaning one hour "window" rights are required to protect the current path times.

Summary

One hour 'Windows' are requested so that future timetable changes do not diverge excessively from the current WTT's being offered by Network Rail. While significant retiming to an arrival or departure may result in the need to also retime the inbound or return workings to maintain terminal times. Significant increases in overall journey times could potentially result in non-workable terminal plans and consequently lead to an increase in Driver costs, which could impact on the profitability of the existing DBC contracts.

One hour "window" rights are essential to the rostering of Drivers and Ground Staff including 'balancing' drivers with other traffic to ensure DBC can deliver a cost-efficient plan. This is particularly prevalent with WTT overnight.

Maritime

Commercial Justification for Access Rights

This a commercial justification for one-hour window rights on freight traffic hauled by DBC on behalf of Maritime Transport;

- 4M34 / 4L38 Felixstowe North Terminal – East Midlands Gateway

Customer and market

DBC are committed to increasing market development of the Intermodal sector, which is of high strategic importance to DBC. The UK rail freight Intermodal sector has been dominated by Freight-liner, particularly at locations such as Felixstowe. Gaining access rights is sought to strengthen DBC's current position in the Intermodal sector.

DBC are seeking to invest heavily in a fleet of vehicles for Intermodal traffic and one hour 'windows' affords certainty to invest in the necessary resources. The reliability will assist in increased support from the DB Cargo AG board as well as increasing the investment footed by our customers, particularly Maritime Transport Ltd.

Customer and business development

DBC holds a 10-year contract with Maritime to operate its rail services from Felixstowe and Southampton. The contract supports DBC in delivering sustainable and profitable rail services to the sector. Collaboration has seen a substantial modal shift from road to rail, further driven by Maritime's previous struggle for HGV drivers on the back of the Covid-19 pandemic.

Investment

East Midlands Gateway has seen a joint investment of £40m from Maritime, Segro and Network Rail. Maritime is now developing a Phase 2, with a further investment of £12m through extending the loading area at EMG and increasing track capacity within the terminal. This will enable additional rail services to operate.

Summary

One hour 'Windows' are requested so that future timetable changes do not diverge excessively from the current WTT's being offered by Network Rail. While significant retiming to an arrival or departure may result in the need to also retime the inbound or return workings to maintain terminal times. Significant increases in overall journey times could potentially result in non-workable terminal plans and consequently lead to an increase in Driver costs, which could impact on the profitability of the existing DBC contracts.

One hour "window" rights are essential to the rostering of Drivers and Ground Staff including 'balancing' drivers with other traffic to ensure DBC can deliver a cost-efficient plan.

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 Sixth 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.

All aspects of this application are not yet agreed with Network Rail. This application was due to progress through NR internal consultation but insufficient time is available to complete this ahead of the ORR deadline to receive applications of 20th 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.

All requests in this supplemental already have either Firm or Contingent Rights. Those which have Contingent Rights were seeking Firm Rights in DB Cargo's 58th Supplemental Agreement (approved by SoAR on 27 March 2023) but were made Contingent at Anglia routes request due to the then planned GEML ESG which was subsequently cancelled. Given the time since the approval of the 58th Supplemental Agreement, some further changes are also requested to reflect current operations of these Rights.

Details of the changes can be found in the accompanying marked up **Schedule 5 table**.

Amended rights

		Origin	Destination
SG 1614			
6E70	MSX	RIPPLE LANE WEST S.S.	TINSLEY S.S.
6E70	SO	RIPPLE LANE WEST S.S.	TINSLEY S.S.
6L55	MWFO MWFO	TINSLEY S.S.	BARKING EUROHUB (DBC) RIPPLE LANE H GROUP SDGS
6L55	TThO	TINSLEY S.S.	BARKING EUROHUB (DBC) RIPPLE LANE H GROUP SDGS
6L60	FSX - Y	PETERBOROUGH L.I.P.	ACTON T.C.
6V73	SX MWFO	CRICKLEWOOD AGGREGATES DBC	ACTON T.C.
6M01	FO	PETERBOROUGH L.I.P.	CRICKLEWOOD AGGREGATES DBC
SG 4075			
4L38	MO	EAST MIDS GATEWAY TML DBC	FELIXSTOWE CENTRAL DBC FELIXSTOWE NORTH DBC
4L38	MSX	EAST MIDS GATEWAY TML DBC	FELIXSTOWE CENTRAL DBC FELIXSTOWE NORTH DBC
4M34	MSX	FELIXSTOWE CENTRAL DBC FELIXSTOWE NORTH DBC	EAST MIDS GATEWAY TML DBC
4M34	SO	FELIXSTOWE CENTRAL DBC FELIXSTOWE NORTH DBC	EAST MIDS GATEWAY TML DBC
4L76	FSX	EAST MIDS GATEWAY TML DBC	FELIXSTOWE SOUTH DBC
4L76	FO	EAST MIDS GATEWAY TML DBC	FELIXSTOWE SOUTH DBC
4M79	TO	FELIXSTOWE SOUTH DBC	EAST MIDS GATEWAY TML DBC
4M79	WThFO	FELIXSTOWE SOUTH DBC	EAST MIDS GATEWAY TML DBC
4M79	SO	FELIXSTOWE SOUTH DBC	EAST MIDS GATEWAY TML DBC

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?

DBC holds freight haulage contracts for traffic moving in the Train Slots for which it is seeking Firm Rights. The contracts extend beyond DBC's existing Track Access contract (expiry PCD 2026).

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 (e.g. 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 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 DBC 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 20 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