

## APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity. If a train operator wants to access the national railway network, it will need a track access agreement with Network Rail which requires ORR's approval under the Railways Act 1993. When determining access to the network, we must have regard to our [statutory duties](#), most of which are set out in section 4 of the Act. We must exercise our functions (which include the approval of access contracts) in a way that we consider best achieves those duties.

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

It sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

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

We are happy to talk to you informally before you apply. Please contact us [here](#). You can download a copy of this form, and of our model track access contract, from our [website](#). Please ensure that you are using the latest version of this form as published on our website. We may ask for applications which have not used the latest version to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

# 1. Application Summary

## 1.1 Beneficiary company name:

First Trenitalia West Coast Limited

## 1.2 Facility owner details:

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

## 1.3 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
Supplemental Number:						14	
Current contract date:						1 December 2022	
Current contract expiry date:						14 December 2030	

## 1.4 Applicant status:

Public Service Operator <input type="checkbox"/>	Public service contract start date:	1 December 2022
	Public service contract end date:	14 December 2030
	Name of funder (e.g. DfT, Local Authority):	DfT
	Does the funder support this application?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Open Access <input type="checkbox"/>		
Charter Operator <input type="checkbox"/>		

## 1.5 Executive summary of the proposed contract or amendment:

This Application, made under Section 22A of the Railways Act 1993, is for Firm Rights to run from 15 December 2024, and will reinstate services that were temporarily removed during Covid, for which Avanti West Coast previously held Access Rights for.

This S22A application is being consulted in parallel with Avanti's 11<sup>th</sup> SA (also a S22A for 15 December 2024). Insufficient time was available to complete the S22 application ahead of the ORR deadline of 20<sup>th</sup> May 2024 to receive applications, as per ORR's '*Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes*' letter dated 24<sup>th</sup> April 2024. This S22A has not yet gone out to industry consultation.

AWC and NR consider this application meets ORR's criteria for the 20<sup>th</sup> May submission.

### Weekdays

1Axx 13:32 Chester to London Euston

### Saturdays

1Dxx 17:32 Chester to Crewe

### Sundays

1Bxx 19:09 Euston to Wolverhampton

Proposed commencement date:	15 December 2024
End date:	14 December 2030
Date approval or directions wanted by:	

## 1.6 Industry consultation:

Who carried out the consultation?

Consultation start date:		Consultation end date:	
Not carried out <input type="checkbox"/>			

**1.7 Applicant details**

<p><u>Facility Owner</u>  Company: Network Rail  Contact name: Paul Harris  Job title: Franchise &amp; Access Manager  Address: 2<sup>nd</sup> Floor, Baskerville House,  Centenary Square, Broad Street,  Birmingham B1 2ND  Phone: [REDACTED]  E-mail: [REDACTED]</p>	<p><u>Beneficiary</u>  Company: First Trenitalia West Coast Rail Ltd  Contact name: Sue Rhymes  Job title: Track Access Manager  Address: Ground Floor, Victoria Square House,  Victoria Square, Birmingham, B2 4DN  Phone: [REDACTED]  E-mail: [REDACTED]</p>
---	--

**1.7 Date of application to ORR:**

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

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


**2. Licence and railway safety certificate**

**2.1 Please state whether:**

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

**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.

**Train operating licence:** First Trenitalia West Coast Rail Limited (the “Train Operator”) holds a valid train operating licence under section 8 of the Railways Act 1993 and a European licence for the purposes of the Railways (Licensing of Railways Undertakings) Regulations 2006.

**Railway Safety Case:** The Train Operator holds a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006

### 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).

This Application, made under Section 22A of the Railways Act 1993, is for the early reinstatement of three temporarily relinquished Firm Rights to run from 15 December 2024 vice 18 May 2025.

#### Summary of Changes

The access rights below are currently temporarily relinquished until 17 May 2025. This application seeks to re-instate them from 15 December 2024.

##### Weekdays

1Axx 13:32 Chester to London Euston

##### Saturdays

1Dxx 17:32 Chester to Crewe

##### Sundays

1Bxx 18:15 London Euston to Birmingham New Street (The additional train is actually the 19:09 Euston to Wolverhampton, which utilises Rights previously held by the 18:15 when it ran to Shrewsbury, hence a new application required for the 18:15)

**3.2 Safety risks:** Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner’s safety authorisation and the train operator’s safety certificate).

N/A

**3.3 Contract duration:** For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

Proposed commencement date:	15 December 2024
End date:	14 December 2030

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

Unknown, as under consideration as part of the '20<sup>th</sup> May' process.

### 3.5 Bespoke provisions (departures from ORR's model access contracts)

Does the proposed contract include any departures from ORR's model access contract:

Yes

No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

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

### 3.6 Consolidated contract

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

No – 11<sup>th</sup> SA to be implemented first.

## 4. The impacts of the proposal

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

This proposal reinstates three trains that operated pre-pandemic, as part of the uplift towards the level of service agreed at the Dec 22 ESG.

The additional Chester to London Euston SX fills a 2 hour gap in the service as part of an uplift to bring the service between 10.32 and 14.32 from 2-hourly to hourly, restoring the pre-pandemic service level. This was originally planned for Jun 24 but has since been deferred until December.

The 17.32 Chester to Crewe [SO] currently operates ECS, so this Right converts it to a passenger train, providing a further journey opportunity to Crewe (and London Euston via a change of train) and providing a later train to supplement TFW's hourly service.

The additional Birmingham service addresses a gap in the service in the evening Peak, bringing the service to 3tph in that hour in line with the uplift trajectory.

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

These services were incorporated in the timetables developed by the WCML Industry Planning Group (IPG) and Event Steering Group (ESG) workstreams.

AWC has worked closely with Network Rail in collaboration with other Operators, and has built its timetable on conclusions from the WCML IPG Final Report published in February 2021. The resulting Concept Train Plan, developed through the ESG, delivers a timetable structure that incorporates the services detailed in 4.1.

**4.3 Performance:** What is the impact on network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

The rights sought reflect commitments to the Secretary of State on award of the West Coast Franchise.

Changes being proposed shown below:

**Weekdays**

1Axx 13:32 Chester to London Euston

On SX days, AWC currently run a 10:35 departure from Chester to Euston (which starts at Holyhead at 08:53), a 12:32 departure from Chester to Euston (which starts at Chester) and a 14:32 departure from Chester to Euston (which starts at Holyhead at 12:48). The T-3 performance of these between periods 2410 and 2501 is 82.5% (3<sup>rd</sup> best out of 9 Euston terminating trains in the service group), 79.2% (6<sup>th</sup> best out of 9) and 79.3 (5<sup>th</sup> best out of 9) respectively. It would be reasonable to assume similar performance for the 13:32. AWC are also introducing an 11:32 at this timetable change, using unused Firm Rights.

**Saturdays**

1Dxx 17:32 Chester to Crewe

On Saturdays, the closest departure from Chester to Crewe running currently is the 16:32, 1A70. This service typically departs Holyhead at 14:48 to terminate at Euston at 18:35.

The T-3 performance of this train at Chester and Crewe only between periods 2410 and 2501 was 83.3%, this is 6<sup>th</sup> best out of 10 up direction trains that call at Crewe and/or Chester on Saturdays.

**Sundays**

1Bxx 18:15 London Euston to Birmingham New Street (The additional train is actually the 19:09 Euston to Wolverhampton, which utilises Rights previously held by the 18:15 when it ran to Shrewsbury, hence a new application required for the 18:15)

On Sundays, AWC currently run an 18:15 departure from Euston to Wolverhampton/ Shrewsbury, a 19:15 departure from Euston to Wolverhampton and a 20:09 departure from Euston to Wolverhampton. The T-3 performance of these between periods 2410 and 2501 is 56.0% (10<sup>th</sup> best out of 19 Euston originating trains in the service group), 60.0% (8<sup>th</sup> best out of 19) and 50.0 (13<sup>th</sup> best out of 19) respectively. It would be reasonable to assume similar performance for the 19:09.

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

N/A

**5. The expression of access rights**

**5.1 Changes to rights:** please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

This Section 22A is for the following contractual amendments; required to support the service changes listed in Section 1.5, which form part of the December 2024 timetable Bid. Summarised below.

Service Amendment	Days	Additional Firm Right Required	Timing Load
Chester to London Euston	M-F	Plus 1 from Dec 24 – May 25 (Firm Right previously held and temporarily relinquished from January 24 until May 25)	80x
Chester to Crewe	SO	Plus 1 from Dec 24 – May 25 (Firm Right previously held and temporarily relinquished from January 24 until May 25)	80x
London Euston to Birmingham New Street	SUN	Plus 1 from Dec 24 – May 25 (Firm Right previously held and temporarily relinquished from January 24 until May 25)	80x

The rights being sought will enable the operation of Avanti's December 2024 timetable. They will provide additional journey opportunities and capacity at a time when passenger numbers are continuing to recover, and existing services are becoming busier.

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

None

**5.3 Specified equipment:** Please explain any changes to specified equipment (rolling stock). Has the vehicle and route acceptance procedure in the Network Code (Part F) has been completed? Please explain whether you have, or will have, the rolling stock necessary to exercise the rights.

The rights being sought utilise existing specified equipment.

**5.4 Contractual obligations:** Are the proposed services necessary to fulfil obligations under a public service contract? For publicly contracted operators seeking additional access rights, we will expect to see evidence of funder support for the specific rights and of operators' intent and ability to operate the new services.

These services form part of the service specification contracted as an obligation under the FTWCRL Franchise Agreement.

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

N/A

**5.6 Long Term Planning Process:** Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

N/A

## 6. Competing passenger services:

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

- (i) a new open access service which would compete with franchised services and so impact on the public sector funder's budget;
- (ii) a new franchised service which would compete with an existing franchised service, where we would expect to focus the test on areas where the competing franchised services are operated on behalf of different funders or where for some other reason there are particular concerns over the impact on a funder's budget; and



- (iii) a new service, which might be open access or franchised, which would compete with an existing open access service and which, if it caused the existing open access operator to withdraw from the market, could reduce overall competition on the network.

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

N/A

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

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

## 7. Incentives

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

N/A

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

N/A

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

Yes

**7.4 Performance regime changes (for applications under sections 17 or 22A only):** where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed.

N/A

## 8. Enhancement

**8.1 Enhancement details:** where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework).

AWC continues to work closely with Network Rail on joint implementation of a line speed project to raise the permissible speed for non-tilting trains on the WCML. Our new-build Hitachi Class 807 and 805 trains will take advantage of this, enabling optimal use of track capacity and performance benefits.

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

N/A

## 9. Other

**9.1 Associated applications to ORR:** please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide evidence that this process has been completed.

N/A

**9.2 Side letters and collateral agreements:** please confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it.

N/A

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

The consultation version should exclude those items normally redacted by the ORR, for the usual reasons of commercial confidentiality.

## 10. Pre-application consultation

### 10.1 The consultation:

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

As noted above, AWC has worked collaboratively with multiple key stakeholders in development of these proposals as through the industry IPG and ESG forums, alongside ongoing engagement with local authorities and sub-national transport bodies.

Who conducted the consultation?

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

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

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

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

## 11. Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.*

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

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

Signed ...[Redacted]..... Date ...17<sup>TH</sup> MAY 2024.....

Name (in caps) ...SUE RHYMES..... Job title ...TRACK ACCESS MANAGER.....

For (company) ...AVANTI WEST COAST.....

## 12. Submission

**12.1 What to send:** please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

### 12.2 Where to send it:

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