

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:

Grand Central Railway Company Ltd (Grand Central)

1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input type="checkbox"/>	Wales & Western <input type="checkbox"/>	Scotland's Railway <input 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:						24th	
Current contract date:						01 August 2014	
Current contract expiry date:						PCD 2027	

1.4 Applicant status:

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

1.5 Executive summary of the proposed contract or amendment:

This proposal is for Grand Central to convert the contingent rights it holds for 1 return service on the North East route to a firm right in line with its current Track Access Agreement expiry date. In addition to this Grand Central is seeking to convert the recently awarded contingent rights for station calls at Peterborough to firm rights, aligning them with the current Track Access Agreement expiry date.

Proposed commencement date:	PCD December 2024
End date:	PCD December 2027
Date approval or directions wanted by:	30 June 2024

1.6 Industry consultation:

Who carried out the consultation?	Network Rail		
Consultation start date:	08 March 2024	Consultation end date:	15 April 2024
Not carried out <input type="checkbox"/>			

1.7 Applicant details

<u>Facility Owner</u> Company: Network Rail Contact name: Mark Garner Job title: Customer Manager Address: Floor 4B George Stephenson House, Toft Green, York, YO1 6JT Phone: E-mail:	<u>Beneficiary</u> Company: Grand Central Contact name: Chris Brandon Job title: Head of Business Development and Programmes Address: Suite 2A, 20 George Hudson Street, York YO1 6WR Phone: E-mail:
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1.7 Date of application to ORR:

20th May 2024

1.8 Checklist of documents attached to the application form:

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

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.

N/A

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).

Grand Central currently holds contingent rights for 1 return service on its North East service group. The contingent rights were awarded in 2019 and following delays as a result of the Covid-19 pandemic the service has been operational since May 2022, providing additional direct journey opportunities between Sunderland and London King's Cross.
Since contingent rights were awarded in 2019 these have been extended in line with Network Rail's East Coast Main Line (ECML) access rights policy, with the anticipation that following the finalisation of the ECML Event Steering Group (ESG) timetable these rights would become firm rights within Grand Central's Track Access Agreement.

In addition to this, Grand Central was awarded contingent rights for a limited number of services to call at Peterborough station (no more than 1 service in each service group Monday – Saturday) in November 2023. These rights were granted in line with the Network Rail’s ECML policy position and as with the contingent rights for the additional North East service, it is anticipated that these would be converted to firm rights following conclusion of the ECML ESG work.

Grand Central also holds a mixture of firm and contingent rights for all Grand Central services to make station calls at Pontefract Monkhill. The initial application consulted on also sought to convert the necessary contingent rights held for Pontefract Monkhill to firm rights – however following conclusion of the industry consultation and confirmation that the ESG timetable will not be implemented in the December 2024 timetable, Grand Central has decided to remove this element of the application. A further application will be made once implementation of the ESG timetable is confirmed or Grand Central can confirm the additional calls can be accommodated in the existing timetable.

Network Rail last issued its updated position in relation to its ECML access rights policy in a letter to ORR on 12/12/2023. Within this letter Network Rail confirmed that it has begun the process of turning applicable contingent rights to firm rights on a case-by-case basis. Network Rail also stated that a decision to implement the ECML ESG timetable on 2nd February 2024, would act as a trigger point for applicable contingent rights being converted to firm.

On 2nd February 2024 the implementation was approved subject to Government approval and was subsequently confirmed by HM Treasury in the Spring Budget. However, the implementation has subsequently been further delayed. Grand Central bid against the ESG timetable for December 2024, however it has since been confirmed that December 2024 will be a timetable rollover. On the basis that Grand Central’s current contingent rights expire in December 2024, this application is made to ensure Grand Central maintains an expectation of rights for those services it has bid for the December 2024 timetable.

The service using the existing contingent rights has been operating since May 2022 and has been included in all subsequent timetables, Grand Central’s Peterborough calls commenced in January 2024.

Grand Central has engaged fully with ECML ESG process and all access rights held and associated services have been accommodated in the ESG timetable developed.

This application therefore seeks to convert the existing contingent rights within Grand Central’s Track Access agreement to a firm right for December 2024.

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).

There are no safety risks. The service utilising the existing contingent rights has operated since May 2022.

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](#).

To the end of the current contract.

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.

At this stage Network Rail is unable to support Grand Central's application to convert its contingent rights to firm rights. Network Rail has set out its ECML policy position in its letter to ORR dated 12/12/2023. Grand Central will continue to work with Network Rail with a view to achieving support if possible once it confirms its current approach to access rights on the ECML.

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

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

Yes

No

If yes, please set out and explain any:

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

Not applicable.

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

Not applicable.

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

Not applicable.

3.6 Consolidated contract

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

The version on the ORR website is conformed as at 04th March 2024 including the 23rd Supplemental Agreement. The version does not include the 27th Supplemental Agreement (PR23 Implementation). Network Rail has provided a copy of the full consolidated agreement to Grand Central and ORR.

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.

Grand Central was awarded access rights on a contingent basis in 2019, recognising the additional passenger benefits the additional service would bring to the local communities served in the North East.

Following significant timetable reductions associated with the Covid-19 pandemic the additional North East service was implemented in 2022 and has since performed well filling an obvious gap within Grand Central's timetable.

In addition to this, Grand Central was granted limited rights to call a small number of services at Peterborough station, bringing the benefits of additional competition to Peterborough as well as creating new direct journey opportunities between Peterborough and stations in the North East and West Yorkshire. The access rights also make use of pathing time in existing Grand Central services turning it into useful station calls.

Since being awarded its original access rights Grand Central has held a mixture of firm and contingent rights to call all services at Pontefract. Due to timetabling constraints Grand Central has provided an inconsistent service at Pontefract Monkhill throughout the week with no services calling on Sundays. The ESG process has allowed Grand Central to provide a more consistent service to Pontefract providing significant additional benefits for the local community – This element is no longer included in the application following confirmation that the ESG timetable implementation has been further delayed.

All of the contingent rights have been accommodated in the ESG timetable. This application seeks to confirm and secure these benefits and additional journey opportunities for the communities served until the end Grand Central's current Track Access Agreement.

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.

Grand Central has operated the additional North East service throughout 2022 and the service has been offered for all subsequent timetables. Grand Central commenced its Peterborough calls in January 2024 with them accommodated in the timetable as a result of pathing time in some Grand Central services. The Peterborough calls were held in the timetable as unadvertised passenger calls, whilst Grand Central awaited a decision from the ORR. No issues have been raised with the additional North East service or the Peterborough calls since they were introduced and through subsequent timetable iterations.

The additional North East services, Peterborough calls and Sunday Pontefract calls are included in the Train Service Specification for the ECML ESG. All these have been validated as part of the ESG timetable development process and were included in the Prior Working Timetable (PWT) for December 2024, prior to the postponement of the implementation.

Grand Central has submitted its bid for the December 2024 timetable with the firm access rights contained within this application reflected in the bid and the ESG outputs.

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 services have been operated since May 2022, we would therefore not expect any negative performance impact with the rights being converted to firm. Additionally, performance modelling is being undertaken as part of the ESG process.

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

There are no implications for the facility owner's maintenance and renewal activity.

5. The expression of access rights

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

Grand Central currently holds contingent rights for 1 return service on its North East service group. It is proposed that this is converted to a firm right in schedule 5 of Grand Central's Track Access Agreement.

Grand Central currently holds contingent rights for a limited number of services to call at Peterborough station (no more than 1 service in each service group Monday – Saturday). These rights were granted in line with the Network Rail's ECML policy position and as with the contingent rights for the additional North East service, it is anticipated that these would be converted to firm rights following conclusion of the ECML ESG work.

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

Grand Central is not proposing any change to Network Rail's flexing rights.

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.

This proposal does not involve any change to the rolling stock used.

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.

Not applicable as Grand Central is an open access operator.

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.

No.

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.

Grand Central has been fully engaged in the development of the ECML timetable recast as a member of the Event Steering Group (ESG). As noted above, the proposal is included in the latest version of the ESG timetable having been validated by Network Rail are included in the PWT for December 2024 prior to the further delay to the ESG implementation.

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:

The additional North East service has been operational throughout 2022 with the access rights granted in 2019. Whilst the service has introduced additional limited competition, this was assessed by the ORR during considerations of its 7th Supplemental Agreement.

Grand Central applied for access rights to call a limited number of services at Peterborough. This application would maintain the limited additional competition at Peterborough that the services provide, this was assessed by the ORR during consideration of Grand Central's 18th Supplemental Agreement.

The proposal introduces no further competition on the route and therefore does not require any further NPA analysis to be undertaken.

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.

Conversion of the contingent right for Peterborough station calls continues to support improving network performance by replacing existing pathing time with useful station calls.

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.

Not applicable

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

There is no change to the monitoring of services arising from this proposal.

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

Not applicable.

8. Enhancement

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

This proposal does not require any network enhancements.

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

Not applicable.

9. Other

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

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.

The whole proposal between the parties has been submitted.

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.

No redactions have been made to the information provided.

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.

Consultation has been carried out with the following consultees:

Company	Email / Contact
Greater Anglia	
Northern	
East Midlands Trains	
TPE	
GTR	
LNER	
Chiltern	
West Midlands	
CrossCountry	
First Rail	
Lumo	
East West Rail	
Grand Union	
Hull Trains	
Nexus	
Go-op	
Mary Bonar	
WSMR	
Avanti West Coast	
NTS Global	

Great Western	
GBRF	
GBRF	
GBRF	
LSLTOC	
DB	
Rail Ops group	
Michael Whitehouse	
Colas	
DC Rail	
GWRR	
Hanson and Hall	
Harsco	
Loram	
Rail Adventure	
Varamis	
Victa Railfreight	
Geldard Consulting	
Legge Infrastructure services	
Fishbone Solutions	
Tarmac	
PD Ports	
HPUK	
Maritime Transport	
MDST	
TFL	
London Authority	
London Travel Watch	
South Yorkshire CA	

DfT	
RFG	
Transport Focus	

Who conducted the consultation?

Network Rail

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

LNER
 CrossCountry Trains
 Northern
 Transport Focus
 West Yorkshire Combined Authority
 Great Western Railway (GWR)

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

WYCA requested confirmation of the proposed changes to Pontefract Monkhill access rights. This was provided via email on 20/05/2024.

All consultees who responded have been advised that the conversion of the Pontefract contingent rights would be no longer included in the application.

Transport Focus raised no issues with the proposed application.

Northern raised no issues with the application, however requested that Network Rail confirm its position in relation to its ECML access rights policy – Network Rail subsequently responded.

GWR raised no concerns with the application.

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.

LNER and CrossCountry trains, were unable to support the application on the basis of the further delay to the ECML ESG timetable with LNER maintaining that Network Rail's ECML access rights policy remains in place.

The basis of the objection is that until the ECML ESG is resolved, both operators are unable to support a conversion of contingent rights to firm rights.

Whilst Grand Central appreciates that the ECML ESG timetable has been further delayed, currently Network Rail has not extended its ECML policy, which in turn means that operators currently holding contingent rights on the ECML see those rights expire in December 2024.

The previous access rights policy stated that Network Rail would consider applications for the conversion of contingent rights to firm rights on a case-by-case basis.

Given that the services operated by Grand Central under contingent rights have been operating since May 2022 for the 6th North East service and January 2024 for the Peterborough calls, and the services

are maintained in the June 2024 timetable, the December 2024 timetable bid and the most recent ESG outputs, Grand Central can see no reason that the contingent rights should not be converted to firm.

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

Following conclusion of the consultation and confirmation that the ESG timetable will not be implemented in December 2024, Grand Central has removed the request for contingent rights for Pontefract Monkhill to be converted to firm rights.

Access rights for Pontefract Monkhill will be retained as currently expressed in Grand Central's Track Access Agreement.

A subsequent application will be made once a firm implementation date of the ESG timetable is known.

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 20th May 2024

Name (in caps) CHRIS BRANDON

Job title HEAD OF BUSINESS
DEVELOPMENT & PROGRAMMES

For (company) GRAND CENTRAL RAILWAY COMPANY LTD

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