

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:

West Midlands Trains Ltd

1.2 Facility owner details:

Network Rail:	<input checked="" type="checkbox"/>				
Region:	Southern <input type="checkbox"/>	Eastern <input type="checkbox"/>	Northwest & Central <input checked="" 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:						30 th	
Current contract date:						15 th May 2019	
Current contract expiry date:						PCD 2026	

1.4 Applicant status:

Public Service Operator <input checked="" type="checkbox"/>	Public service contract start date:	19 September 2021
	Public service contract end date:	20 September 2026
	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:

The purpose of this proposed Supplemental Agreement is to update the Track Access Contract ('the Contract') between West Midlands Trains and Network Rail to provide West Midlands Trains firm access rights for 72 additional services as part of their May 25 timetable change bid.

West Midlands Trains are looking to enhance the number of services per hour between Birmingham New Street and Four Oaks / Lichfield Trent Valley from 4 services per hour to 6 services per hour in each direction.

Proposed commencement date:	SCD 2025
End date:	End of Contract
Date approval or directions wanted by:	TBC

1.6 Industry consultation:

Who carried out the consultation?	Akaash Bhandari		
Consultation start date:	20 th May 2024	Consultation end date:	21st June 2024
Not carried out	<input type="checkbox"/>		

1.7 Applicant details

<u>Facility Owner</u> Company: Network Rail Infrastructure Ltd Contact name: Akaash Bhandari Job title: Franchise & Access Support Manager Address: 2 nd Floor Baskerville House, Centenary Square, Broad Street, Birmingham, B1 2ND Phone: [REDACTED] E-mail: [REDACTED]	<u>Beneficiary</u> Company: West Midlands Trains Ltd Contact name: Scott Turner Job title: Network Access Manager Address: West Midlands Trains Ltd, 134 Edmund Street, Birmingham, B3 2ES Phone: [REDACTED] E-mail: [REDACTED]
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1.7 Date of application to ORR:

24th June 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.

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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).

The 30th Supplemental Agreement seeks to amend West Midlands Trains' Schedule 5 Tables in their Track Access Contract to include an additional quantum of 72 access rights.

West Midlands Trains are looking to reverse changes made to the North section of Cross City Timetable during the covid - 19 pandemic, as West Midlands Trains concludes the successful introduction of the Class 730 Electric Multiple Unit to the Bromsgrove/ Redditch to Lichfield Trent Valley route it now looks to make best use of the fleet.

With this in mind and the gradual increase in passenger numbers West Midlands Trains has carefully evaluated its options.

Whilst an increase in services across the whole Cross City route to 6 trains per hour (Split across destinations) is deemed as the desired option, West Midlands Trains believes the best approach at this time is an increase to 6 Trains per hour along the Northern section between Birmingham New Street and Lichfield Trent Valley.

Currently West Midlands Trains run 4 Trains per hour with the following hourly structure from Birmingham New Street.

**Highlighted in red are the aspirational slots we wish to see the additional services take at New Street and Lichfield Trent valley / Four Oaks respectively so the full picture can be seen.*

Northbound

- xx:06 Birmingham New Street – Lichfield Trent Valley xx:47
- xx:16 Birmingham New Street – Four Oaks xx:40
- **xx:26 Birmingham New Street – Lichfield Trent Valley xx:13**
- xx:36 Birmingham New Street – Lichfield Trent Valley xx:17
- xx:46 Birmingham New Street – Four Oaks xx:10
- **xx:56 Birmingham New Street – Four Oaks xx:20**
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Southbound

- xx:46 Four Oaks – Birmingham New Street xx:10
- xx:39 Lichfield Trent Valley – Birmingham New Street xx:20
- **xx:49 Lichfield Trent Valley – Birmingham New Street xx:30**
- xx:16 Four Oaks – Birmingham New Street xx:40
- xx:09 Lichfield Trent Valley – Birmingham New Street xx:50
- **xx:36 Four Oaks – Birmingham New Street xx:00**

Please note all proposed services will be formed of 2 x 3 – car class 730's (6 car in total)

The additional services will be isolated from the rest of the Cross City route and diagrams will work on a shuttle basis between Birmingham New Street and Four Oaks / Lichfield Trent Valley, this approach allows for the separation of risk between the core 4 Train per hour service and the 2 Train per hour uplift until such a time that the entire route is brought back to pre-covid quantum.

The isolation of the diagrams also allows for flexibility in regard to platforming at New Street given the changes in service patterns across all operators since the pandemic including the introduction of services along the Camp Hill Route.

Finally with the exception of Birmingham New Street to Proof House Junction the geography subject to the proposed uplift is seldom shared with other operators and thus it is natural that West Midlands Trains wishes it's return to a metro style operation to make best use of the route capacity and the capacity of it's new train fleet.

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).

Maintenance colleagues at Network Rail will be consulted on the application in order to satisfy that no safety risks will be identified and left unmitigated. This application will also be managed as part of the TP-RAM process and Network Rail internal colleagues will be consulted on the application.

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](#).

Not applicable to this application

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.

Due to the requirement by the ORR to submit unsupported applications by the 20th of May 2024 Network Rail have not been able to fully agree the application or take the proposed application to a SOAR panel.

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.

The West Midlands Trains' TAC was last consolidated to incorporate the changes made by the 25th Supplemental Agreement and fully uploaded onto the ORR website.

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.

The changes required in the proposed May 2025 timetable will allow West Midlands Trains to enhance capacity along the Cross City North route by returning service within this section to 6 Trains Per Hour, this change will utilise the infrastructure and fleet capabilities available to West Midlands Trains to their fullest.

Given the Metro Style operation of the Cross City the increase in services will benefit the passenger by providing additional clockface services from stations along the route along with providing additional passenger capacity, the reduction in crowding along with the introduction of High-quality, modern, high-performing rolling stock will be transformative, this will act as a catalyst to passenger growth by persuading new users to the service thus increasing modal shift within the region from road to rail.

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.

In regard to capacity the current requirement by the ORR for operators to make their aspirations known by the 20th of May deadline has accelerated our need to apply for these rights, therefore WMT's aspirations will not have been discussed with Capacity planning at length or with other operators.

Our chief considerations are between Proof House Junction and Birmingham New Street, In regard to Birmingham New Street West Midlands Trains will require the ability to platform 6-car 730 formations but the proposed services will have flexibility in that they can be platformed away from the core services given the degree of separation.

However, we firmly understand that capacity will not be an issue between Proof House Junction to Lichfield Trent valley in regard to the 6 Train per hour service there is no need for wider and more extensive changes to the X-City timetable pattern as it retains 20/10-minute gaps now (a legacy of the pre covid timetable of 6tph)

Between now and the implementation of the services West Midland Trains will work with Capacity planning teams and other Train Operators to make best use of available capacity to limit the requirements for major changes to current timetables.

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.

West Midlands Trains believes the proposal represents a limited impact on performance, the 2 additional services in each direction per hour will operate as standalone diagrams between Birmingham New Street and Four Oaks / Lichfield Trent Valley, resourced from Soho depot these will have the benefit of separation of resource from the core diagrams, meaning in perturbation we would be able to cancel services without transmitting any significant delay to the core 4 trains per hour service.

Also as previously mentioned the majority of the route is solely served by West Midland Trains only, this represents limited risk whilst realising increased capacity, the increased capacity of 6 Trains per hour looks to remove gaps in timetable which can cause crowding and station/dwell time performance risks, particularly Football and concert traffic to and from Villa Park.

Between now and the implementation of the services, West Midland Trains will work with performance teams and other Train Operators to ensure best practices and previous experience is applied to the planning and delivery of the additional services to ensure there is no deterioration of performance across the route and the wider region.

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

The application will be circulated internally amongst Network Rail's NW&C maintenance colleagues to ensure risks are identified and managed appropriately.

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.

The application to grant these firm rights to West Midlands Trains will see the quantum of services in Schedule 5 Table 2.1 for Passenger Train Slots within the Track Access Contract increase by 72.

Annex A shows a marked up copy of the Schedule 5 tables with the changes enacted and Annex B shows a clean version of the tables from a previous consolidated agreement.

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

Not applicable to this application.

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.

Class 730 Electric Multiple Units only.

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.

The requirement to build back to 6tph across the entire Cross City route has always been understood by the funder and is very much supported by WMRE.

This has always been subject to demand recovery and funding. However, the current requirement by the ORR for operators to make their aspirations known by the 20th of May deadline has accelerated our need to apply for these rights.

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.

Not applicable to this application

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.

All changes contained within this proposal will be bid for as part of the Long Term Planning Process.

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:

As part of this application for quantum of rights it has been identified there are a number of competing aspirations for capacity at Birmingham New Street from PCD 2024 and beyond.

Below outlines the operators' seeking rights at Birmingham New Street

CrossCountry Trains

As part of the timetable change, XCTL will introduce a daily though service in each direction between Cardiff and Edinburgh, promoting Union Connectivity. This utilizes existing paths between Birmingham and Edinburgh, and the rights required are new access rights. These rights have not been supported by Network Rail at this stage.

Below lists the quantum being sought.

- 2 SX rights 221 Cardiff – Birmingham
- 1 SX right 221 Nottingham – Birmingham
- 2 SX rights 221 Birmingham – Bristol Temple Meads via Gloucester
- 1 SX right 221 Birmingham – Cardiff
- 1 SX right 221 Gloucester – Cardiff
- 1 SX right 170 Nottingham – Gloucester
- 1 SO Seasonal and 1 SU Seasonal right 221 Birmingham – Newcastle
- 2 SX rights 221 Newcastle – Birmingham plus 1 Seasonal SO and 1 Seasonal SU 221 right
- 1 SX right 221 York – Birmingham plus 1 Seasonal SO and 1 Seasonal SU 221 right
- 1 SX right 221 Manchester – Birmingham

Alliance Rail

Alliance Rail currently have aspirations to operate services between Cardiff Central and Edinburgh from PCD 2025. Below is a brief description of the service plan Alliance Rail have aspirations to operate services from in PCD 2025.

- **Alliance Rail:** 5 tpd each direction, PCD 2025 – PCD 2032 (Cardiff Central, Newport, Severn Tunnel Junction, Gloucester, Birmingham New Street, Derby, Sheffield, Doncaster, York, Newcastle, Edinburgh Waverley)

West Midlands Trains

As part of their Dec '24 application West Midlands Trains are seeking a new quantum of rights for services to run between Birmingham New Street and Kings Norton which are covered in the 22nd Supplemental Agreement for their Camp Hill line application. Below lists the quantum being sought for services to run to and from Birmingham New Street

1						2		
2 nd Service Group EJ03 West Midlands New Street Locals								
Service description						Passenger Train Slots		
From	To	Via	Description	TSC	Timing Load	Weekday	Saturday	Sunday
Birmingham New Street	Kings Norton	Moseley	3.76	????	172	33	33	15
Kings Norton	Birmingham New Street	Moseley	3.77	????	172	34	34	15

West Midlands Trains are also seeking capacity for further additional services from PCD 2024 for services to run between Birmingham New Street – Shrewsbury and within the Birmingham New Street – Liverpool corridor. Below lists the quantum for these services to run to and from Birmingham New Street.

From	To	Via	Description	Timing load	Day of week	Required
Wolverhampton	Birmingham New Street	Direct	3.31	350	SX	1
Birmingham New Street	Crewe	Penkridge / Madeley	4.1	350/110	SX	2
Crewe	Birmingham New Street	Madeley	4.4	350/110	SX	1

From	To	Via	Description	Timing load	Day of week	Required
Birmingham New Street	Shrewsbury	Wolverhampton	4.8	170	SX	4
Birmingham New Street	Shrewsbury	Wolverhampton	4.8	170	SX	1

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.

Not applicable to this application

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 to this application

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

The performance of these services will be kept under regular review. Network Rail and West Midlands Trains will monitor performance along these lines of route every four to six weeks and feedback findings to their respective performance teams for visibility.

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.

Due to the requirement by the ORR to submit unsupported applications by the 20th of May 2024 Network Rail have not been able to fully agree the application or take the proposed application to a SOAR panel.

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).

Not applicable to this application

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 to this application

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.

- 29th supplemental agreement application for full rights for 19 services.
- 22nd supplemental agreement application for Camp Hill – Dec '24 rights.
- 28th supplemental agreement application for Liverpool and Shrewsbury Enhancements.
- 31st supplemental agreement application for Stratford May 24 Rights.

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.

Not applicable to this application

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.

Not applicable to this application

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.

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

Date **17th May 2024**

Name (in caps) **SCOTT TURNER**

Job title **Network Access Manager**

For (company) **West Midlands Trains 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