

Application to the Office of Rail Regulation for a passenger track access agreement, or amendment to a passenger track access agreement under sections 17-22A of the Railways Act 1993

1. Introduction

Please use this form to apply to the Office of Rail Regulation (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our [criteria and procedures](#) (C&Ps). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published [model passenger track access contract](#) as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us [here](#).

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: www.rail-reg.gov.uk.

2. The application

2.1 Title of proposed contract or supplemental agreement (please also include the section of the Railways Act 1993 under which you are applying):

Great North Eastern Railway Company Limited Yorkshire & Lincolnshire

2.2 Contact details (Company and named individual for queries):

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail	Company: The Great North Eastern Railway Company Limited
Contact individual: Rachel Gilliland	Contact individual: Jonathan Cooper
Job title: Customer Relationship Executive	Job title: Head of Contracts
Address:	Address: Alliance Rail Holdings
Telephone number: 07767 644397	88 The Mount
Email address: Rachel.gilliland@networkrail.co.uk	York
	YO24 1AR
	Telephone number: 01904 628904
	Email address: jc@alliancerail.co.uk

2.3 Licence and railway safety certificate: please state whether you intend to operate the services yourself or have them operated on your behalf.

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.

C&Ps paras 3.9-3.15

The applicant intends to operate the services itself under the Great North Eastern Railway Company Limited brand name GNER.

GNER does not yet hold a valid train operating licence or a valid safety certificate. It intends to commence operations in December 2017 on the Cleethorpes route and December 2018 on the Bradford route.

Applications for an operating licence and a safety certificate will be made well before commencement of operations.

3. The proposed contract or amendment

3.1 Executive summary: please provide an executive summary of 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). **C&Ps para 3.22-3.28**

Please also 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). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#). If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

Date of commencement: Principal Change Date in December 2017

End date: Principal Change Date in December 2032

GNER plans to introduce the following passenger services, seven days a week, starting with the December 2017 timetable:

- King's Cross to Bradford Forster Square via Hambleton West Junction and Leeds approximately every two hours, with one train per day serving Ilkley instead of Bradford.
- King's Cross to Cleethorpes via Doncaster – up to four trains per day.

Trains will also serve the following intermediate stations, for which GNER is also seeking station access rights:

Doncaster; East Leeds Parkway (new station); Leeds; Kirkstall Forge (opens May 2015); Shipley; Guiseley; Scunthorpe; Habrough; Grimsby Town.

Track access rights will also be needed for associated empty stock movements, diversionary routes and depot access. .

The service will be operated with 125 mph rolling stock. The draft contract specifies the use of Hitachi's 5-car Super Express Trains (SET). However, alternative rolling stock with similar capabilities is still under consideration. In either case, the main depot for the rolling stock is likely to be in the Doncaster area. It is currently planned that all trains will return there overnight.

Using high performance rolling stock will ensure that the best use is made of available capacity on the 125 mph ECML.

These new services will provide through journeys to London from a number of stations that either have a very limited through service to London or none at all. Previous studies have demonstrated the optimum benefits of providing such services at a two-hourly interval. The proposal will also offer very attractive journey times to/from London and bring Leeds passengers the benefit of limited competition with the East Coast franchise.

As well as investing in new trains, GNER will invest in a new 'park & ride' station at East Leeds Parkway. This will encourage road users to switch to rail for journeys to both London and Leeds.

This will be a new contract with services operating under 'open access' provisions.

GNER will use selective door opening (SDO) at locations such as Guiseley and Habrough where the current platforms are too short to accommodate all vehicles. No other safety risks have been identified at this stage.

3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): please set out here any areas of the application which have ***not*** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. ***C&Ps para 3.102***

Network Rail has advised GNER that it is not currently in a position to quantify the available capacity on the ECML in December 2017 or beyond. It is therefore unable to agree at the moment with GNER's assessment that there will be capacity for the proposed services. Alliance disputes this position as there are no competing applications for capacity (including East Coast and TPE and Northern track access extensions). It is a fact that the franchised operators do not hold any rights for this period and so the capacity must exist. Alliance would remind ORR of the principles and the legal position established in Directive 2012/34/EU.

In addition Network Rail does accept that a number of CP4 schemes have created additional capacity on the ECML. However, some of those schemes are not yet complete. Even where the work is physically complete, many of the capacity benefits have not yet been fully realised.

The East Coast Connectivity Fund is targeted at further capacity and journey time enhancements by the end of CP5 which is where the introduction of this new service is focused. We agree with Network Rail that a timetable recast will be necessary to make optimum use of this additional capacity. Timetable recasts for the ECML, as defined in the Calendar of Events, are scheduled for both December 2016 and December 2018.

3.3 Departures from ORR's model passenger track access contract: please set out and explain here any:

- Areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. ***C&Ps paras 2.34-2.37***
- 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 passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). ***C&Ps paras 5.1-5.44***
- New processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. ***C&Ps paras 6.2-6.3***

This agreement is based upon the Passenger Track Access Model Contract, which is intended for franchised operators. Therefore this contract has been amended to reflect use for Open Access. In addition amendments have been made in relation to RPI updates and to reflect the recent changes to Part D of the Network Code.

A 'reopener' clause has been included for 'Events' as defined in the Network Code.

4. The expression of access rights and the use of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

Services are planned to operate on the following two routes:

- London King's Cross to Bradford Forster Square or Ilkley via Hambleton West Junction and Leeds
- London King's Cross to Cleethorpes via Doncaster and Scunthorpe

Services will operate at two-hourly intervals between London King's Cross and Bradford, though with one service each day in each direction serving Ilkley. Up to four return services a day are planned between Cleethorpes and London King's Cross. GNER services will operate non-stop on the ECML between London and Doncaster or, in some cases, East Leeds Parkway. Balancing moves at the start and end of the day will see some services start and terminate at Doncaster in each direction, as the entire fleet will be based there.

As far as possible, the same level of service should operate throughout the week, though we expect services to finish earlier on Saturdays, and start later on Sundays.

Services are planned to be introduced to Cleethorpes in December 2017 using new build bi-mode 125 mph rolling stock. Between Doncaster and Cleethorpes all services will call only at Scunthorpe, Habrough and Grimsby Town.

Services to Bradford and Ilkley are planned to commence in December 2018, to coincide with the completion of electrification between Hambleton Junction and Neville Hill and with a major timetable recast. These services will be operated using new build 125 mph rolling stock, either all-electric trains or bi-mode. Between Doncaster and Bradford Forster Square or Ilkley, trains will call at a new East Leeds Parkway station, then Leeds, Kirkstall Forge (which is due to open in May 2015) and Shipley. The Ilkley trains will call at Guiseley instead of Shipley.

Discussions with potential suppliers have been on-going for a significant period with pricing established for both rolling stock and maintenance. The draft contract is based on the use of 5-car Super Express Trains (SET) supplied by Hitachi.

The travel opportunities afforded by these new services will provide significant economic benefits to the areas concerned. There will also be significant economic benefits from new employment opportunities, especially in Doncaster.

Trains will initially have a capacity of 300 seats from 5 passenger vehicles. Some trains are planned to run in multiple from the start: there is also the option to strengthen other services in the future to meet increased demand.

GNER will contribute investment towards a new 'park and ride' station at East Leeds Parkway. This will encourage road users to switch to rail for journeys to both London and Leeds. An inter-city station between Micklefield and Leeds was first proposed by the East Coast franchise holder in 2006 as part of its proposed 'Leeds Horseshoe' service. Metro (West Yorkshire) has recently confirmed that the provision of a park and ride station to the east of Leeds is still in its strategic transport plan. It supports GNER's proposal for a new station in principle, though has understandably emphasised that its own focus is on the local market for journeys to Leeds.

Using high performance rolling stock will ensure that the best use is made of available capacity on the 125 mph ECML.

These new services will provide through journeys to London from stations that either have a very limited through service to London or none at all. This includes a fast direct service for the larger Bradford catchment with a regular two-hourly call at Shipley as well as Bradford Forster Square. This will improve significantly on the one a day existing service operated by East Coast from Bradford Foster Square and supplement those operated by Grand Central from Bradford Interchange. Previous studies have demonstrated the optimum benefits of providing such services at a two-hourly interval.

The proposal will offer very attractive journey times between three stations in Leeds and London. It will also bring Leeds passengers the benefit of limited competition with the East Coast franchise. Open access services have consistently topped customer satisfaction surveys, and GNER plans to offer a high quality on-board service to maintain or surpass this standard. Passengers will benefit from lower fares increases than are applied where there is no on-rail competition, as demonstrated in a number of recent studies.

The government also values the benefits of competition that open access can bring. This was echoed in the Houses of Parliament on the 23rd January 2014 when Stephen Hammond MP stated, in reply to a question from Therese Coffey MP:

"Open access operators have helped to provide innovative services for passengers and have helped to grow new rail markets—often with excellent passenger satisfaction scores. The additional competitive pressure in the market provided by open access can also improve the experience of passengers of franchised services.....our assessment is that for this very different part of the rail market the open access system works well for both customers and the public purse".

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

The following CP4 infrastructure enhancement schemes have all been justified in part on increases in capacity for LDHS services on the ECML:

- Finsbury Park to Alexandra Palace additional running line
- Hitchin flyover
- Peterborough additional platforms
- Level crossing upgrades
- GN/GE Joint Line upgrade for frequent freight use
- North Doncaster chord (Shaftholme flyover)

Very limited benefit has yet been realised from the completed schemes such as the Hitchin flyover. The last two of these schemes have not yet been completed. There is therefore additional capacity to be utilised from May 2014 onwards. GNER agrees that a timetable recast will be necessary to make best use of this. Network Rail has included a December 2016 and December 2018 timetable recast in its latest Calendar of Events.

There are several schemes planned during CP5 that will create further additional capacity. These include:

- King's Cross to Belle Isle S&C renewals and enhancements
- King's Cross to Alexandra Palace ETCS
- Woodwalton to Huntingdon four-tracking
- Peterborough station central turnback
- Werrington grade-separated junction
- Doncaster east side enhancements (including additional platform)
- Scunthorpe to Cleethorpes resignalling (headway improvements)
- Leeds to Micklefield headway and line speed improvements
- Hambleton Junction to Neville Hill electrification
- Leeds station improvements (new entrance/concourse and additional platforms)

GNER also notes that some suburban services that currently use King's Cross station will be diverted to operate through the Thameslink core some time during 2018. This will free up platform capacity at King's Cross.

GNER is confident that these enhancements will create further capacity, and that the full service will be able to be accommodated by December 2018, or very soon afterwards.

We would remind ORR of the principle identified in Directive 2012/34/EU – that infrastructure development is the responsibility of the state in order to “boost competition”. It is also the position that the franchised operators do not hold any rights for this period (and no competing applications have been made) and so the capacity must exist.

Up to two trains per day in each direction will be coupled or uncoupled at Doncaster to make best use of fast paths on the ECML.

4.3 Flexing rights: please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

The rights sought provide sufficient flexibility for Network Rail and the industry so that the most efficient use of capacity can be made to develop a new timetable during a recast. Rights are sought in the form of quantum peak/off-peak for each service group, with some protection on interval. Alliance notes that Directive 2012/34/EU in Para 38 states "Encouraging optimal use of the railway infrastructure will lead to a reduction in the cost of transport to society". The contract has been developed with this principle in mind.

4.4 Journey time protection: please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

GNER is seeking some maximum journey time protection to protect the return on investment made in both the infrastructure and the rolling stock.

4.5 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of 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 being sought. **C&Ps paras 8.87-8.90**

GNER will be using rolling stock in the form of a full line speed (125mph) EMU or bi-mode MU. The equipment proposed in the contract is Hitachi's 5-car Super Express Train (SET). The rolling stock will be delivered prior to the proposed start date. GNER wishes to discuss with the ORR actual delivery and start dates following a positive decision on this application.

4.6 Franchise obligations: please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

These services are commercial services.

4.7 Public funding: please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

Not applicable.

4.8 Passenger Focus and, where applicable, London TravelWatch: please state whether (and if so to what extent) the proposed services have been discussed with these bodies. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

Alliance consulted prior to this formal submission to the ORR. Passenger Focus is broadly in favour of the new rights being granted. The full response (plus those of others) is included with this application.

4.9 Route utilisation strategies (RUSs): if applicable, please state which RUSs (including the Freight RUS) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. **C&Ps paras 4.5-4.8**

Alliance has been fully involved in the RUS process at all stages, and the Northern RUS and the ECML RUS are most relevant. The application is also relevant to the Network RUS, the Yorkshire and Humber RUS and the Freight RUS.

5. Incentives

5.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. **C&Ps paras 4.26-4.36**

New bi-mode rolling stock will ensure that the service can continue even if the electric power supply fails. Hitachi's electric SET also has a small diesel engine to allow an affected train to continue at low speed.

GNER will work closely with Network Rail to develop detailed contingency plans that can be implemented in the event of disruption. Diesel operation will facilitate the use of diversionary routes where necessary. The use of rolling stock directly compatible with the franchised operator's stock will also help in times of disruption.

5.2 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. **C&Ps paras 4.26-4.36, 5.1**

GNER will discuss with Network Rail the provision of appropriate infrastructure monitoring equipment to be fitted to some or all of its new rolling stock.

5.3 Monitoring of services: would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

Services will be monitored consistent with ORR policy

5.4 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. **C&Ps para 5.38-5.40**

GNER does not operate rail services presently, and so the performance regime will be agreed once the application is approved.

6. Enhancement

6.1 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). **C&Ps paras 4.80**

Funds will be made available to help build the new East Leeds Parkway station. The new station will offer significant parking, reducing pressure on nearby stations and removing traffic from town and city centres.

The introduction of a fleet of new high performance trains will also assist in improving overall network performance.

Further funds will be provided to upgrade and improve station facilities at a number of other locations, and discussions with Network Rail and the SFO's concerned will commence soon.

6.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

The funding of these enhancements will be in line with Network Rail's criteria and the ORR's Policy Framework for Investments. The actual way the enhancements are funded is subject to continuing discussions with Network Rail.

Investment in rolling stock will be either via a conventional lease, a full service provision lease or a capital purchase.

7. Other

7.1 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). **C&Ps paras 3.18-3.19**

Further applications in relation to station and maintenance access will be made following this application.

7.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- 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. **C&Ps paras 6.12-6.16, 6.21**

Financial details regarding costs and revenue for the service group are commercially confidential and will be provided under separate cover to the ORR.

GNER will provide a more detailed package of information to the ORR, including the significant investment to be undertaken in the areas identified in this application.

7.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34**

Any associated side letters to be provided along with the business case information and details of infrastructure investment as outlined in 7.2.

Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed

8. Pre-application consultation

8.1 The consultation: has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities 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 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **C&Ps paras 3.62**

Network Rail conducted the pre-application consultation with 45 Timetable Participants between 28th February and 28th March 2014. Responses were received from the following organisations:

- East Midlands Trains
- Northern Rail
- East Coast Mainline Company Limited
- Freightliner
- Passenger Focus
- DBS
- Transport Scotland
- Department for Transport
- WYPTE (Metro)

8.2 Resolved issues: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation.

Alliance has replied to all of those who responded to the consultation. The wording of this application form has been amended in the light of comments from respondents and our further consideration. We have also clarified the areas of disagreement with Network Rail that remain.

8.3 Unresolved issues: please set out any issues raised by consultees which have **not** been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to responses attached to this form. Please explain why you think these issues should not stop ORR approving the application.

Alliance has responded to all consultees. We believe the issues that we have not been able to resolve are limited to

- a) those that are subject to Network Rail's assessment of available capacity and
- b) those that are in the hands of the ORR, based on the evidence supplied with this application

9. 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 **C&Ps para 3.40***

In the case of agreed applications under section 18 or 22, Network Rail should fill in the required 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 29/04/2014

Name (in caps) IAN YEOWART Job title Managing Director

For Alliance Rail Holdings Limited (on behalf of the Great North Eastern Railway Company Limited.

10. Submission

10.1 What to send: please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. **C&Ps para 3.39**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps para 3.37-3.38**

10.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN