

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):

5th Supplemental Agreement between Network Rail Infrastructure Limited (Network Rail) and London & Birmingham Railway Limited ("London Midland")

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

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail Infrastructure Limited	Company: London & Birmingham Railway Limited
Contact individual: Carew Satchwell	Contact individual: James Carter
Job title: Route Contracts Manager, LNW Route	Job title: Network Access Manager
Address: Baskerville House, Centenary Square, Broad St, Birmingham B1 2ND	Address: 5th Floor, 102 New Street Birmingham B2 4JB
Telephone number: [REDACTED]	Telephone number: [REDACTED]
Fax number:	Fax number: 0121 654 1239
E-mail address: [REDACTED]	E-mail address: [REDACTED]

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

(a) London Midland holds a valid train operating licence dated 7th November 2007
(b) London Midland also has a safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006

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**

London Midland and Network Rail ('the Parties') propose to enter into this Supplemental Agreement in order to provide London Midland with firm rights to operate an hourly shuttle service between Coventry and Leamington Spa, to serve the new station at Kenilworth that is due to be operational from the start of the December 2017 timetable.

Validated paths for these services have been offered by Network Rail as part of the December 2017 timetable offer, to operate broadly at the times specified below (SX):

Leamington Spa	Coventry	Coventry	Leamington Spa
Dep	Arr	Dep	Arr
0608	0624	0634	0656
0701	0717	0735	0750
0803	0819	0836	0851
0900	0916	0936	0951
1000	1016	1036	1053
1100	1116	1136	1151
1200	1216	1236	1254
1300	1316	1336	1351
1400	1417	1436	1453
1503	1519	1536	1557
1602	1618	1636	1651
1700	1716	1744	1759
1804	1820	1836	1855
1900	1916	1935	1950
2000	2016	2036	2052
2100	2116	2136	2151
2200	2216	2236	2251

The rights specifically sought from PCD 2017 are therefore:

- **SX** – 17 round trips between Leamington and Coventry
- **SO** – 16 round trips between Leamington and Coventry
- **SUN** – 13 round trips between Leamington and Coventry

The service will be operated by a Class 153 Diesel Multiple Unit.

The rights sought through this proposed Supplemental Agreement are intended take effect from 10th December 2017 and remain for the duration of the Contract (until Principal Change Date 2018).

London Midland's Direct Award Franchise is due to expire on 15th October 2017, however London Midland is making this application as the services form a December 2017 requirement in the Service Level Commitment for the next West Midlands Franchise.

No safety risks have been identified as part of this proposal.

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**

Not applicable

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**

Not applicable

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**

In December 2013 the Department for Transport (DfT) awarded a grant from the New Stations Fund (NSF) to Warwickshire County Council (WCC) for the development of a new station at Kenilworth, and a supporting train service. Both the station (under construction) and supporting service are planned to be operational from the start of the December 2017 timetable.

The new station at Kenilworth is being promoted by WCC in order to provide residents with an easily accessible train service between Coventry and Leamington Spa, and for interchange to locations such as Birmingham, Oxford, Reading and London to support the economic development of the Coventry and Warwickshire sub-region. The new station project involves:

- A £13.242m capital cost,
- Approximately 275,500 passengers predicted per annum at full demand.
- A Net Present Value (NPV) of newly generated revenue over the standard 60 year assessment period of £47.3m.
- Of the 891 trips from Kenilworth station each day, 58% are expected to be new to rail.
- A BCR for the scheme of 2.59, representing 'High Value for Money'

Timetable development work has been undertaken to understand how the shuttle service could operate in practice alongside existing freight and passenger services on the route. A requirement to 'flex' the timing of the shuttle service to account for other operator's paths has resulted in some exceptions to the standard hour timetable pattern (as shown above).

The parties propose to amend Table 2.1 (Passenger Train Slots) and Table 4.1 (Regular Calling Pattern) of Service Group EJ02 in Schedule 5 of the Contract, to reflect the quantum of services operating.

A marked-up copy of Schedule 5 highlighting the proposed amendments to Table 2.1 and Table 4.1, has been attached to this application for ease of reference.

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**

Timetable development

Validated paths for SX, SO and SUN for the new shuttle service between Coventry and Leamington Spa were provided by Network Rail as part of the December 2017 timetable offer. This has followed a lengthy process of timetable development work, in consultation with Network Rail and other operators, to understand the operational requirements, and risks, associated with operating the proposed shuttle service.

As no historic Timetable Planning Rules existed for the proposed traction type on the route, new values were firstly calculated by Tracsis to underpin the timetable development. These TPRs were calculated to include the infrastructure changes at Milverton and Kenilworth Loop (see section 6.1) which were identified as part of a GRIP3 engineering report (Atkins, 2010) as necessary to support the operation of the service. The TPRs were accepted for December 2017 and underpin the paths offered.

Timetable modelling using RailSys software was first undertaken by Tracsis in 2012/13 based on the December 2012 timetable data, and again in 2014 to update the model with December 2013 timetable data. Following challenges raised by other operators the model was then updated again with a May 2016 timetable baseline to take account of recent timetable changes to Cross Country (XC) services (Reading – Birmingham journey time improvements), and to Chiltern Railways services (introduction of the Bi-Ox services), which triggered a requirement for some re-timings to the proposed shuttle service.

Performance modelling

Due to the complexities of the operation of the single-line between Leamington Spa and Coventry the shuttle service has been the subject of extensive performance assessments, to quantify the potential impacts and recommend any necessary interventions and mitigations. RailSys modelling work undertaken by Tracsis showed that capacity does exist for an hourly shuttle service to operate, albeit with a small modelled performance impact to XC services. This primarily affects the Bournemouth – Manchester Piccadilly trains which follow the Kenilworth shuttle service between Leamington Spa and Coventry in the proposed base plan. The particular risk to northbound XC services is due to the proposed timetable requiring a 'fighting' of passenger services over the single track section between Leamington Spa and Coventry, and the subsequent move to shunt the shuttle unit to the Engineer's Sidings at Coventry in order to clear the platform for other passenger services. It should be noted though, that much of this performance impact to XC was magnified by the number of XC services already shown to be arriving late onto the study area during the period assessed.

Aside from the performance impact noted above, there is a much smaller modelled performance impact on Virgin Trains and Freight paths, and a negligible impact upon Chiltern Railways' services.

A number of meetings and operational workshops have been held involving Network Rail and other affected operators (both passenger and freight), going back to February 2016, to discuss risks, any general timetabling concerns, and to assess mitigation options and any further performance modelling that may be required. The workshops have sought to incorporate any operator concerns raised into the modelling work, and to identify practical operational mitigations to manage the potential impact of any additional delays, in particular to individual XC services and, critically, the knock-on impact to the operation of Coventry station and the Coventry – Birmingham corridor. These workshops are ongoing and continue to discuss specific mitigation arrangements for Sundays, due to the added complexity presented by the second XC service each hour.

There has been no identified impact on Network Rail's maintenance and renewal activities.

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**

There are no changes proposed to the existing agreement in relation to flexing rights.

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**

The Contract contains no provisions for Journey Time Protection.

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**

It is assumed that the service will be operated by a Class 153 Diesel Multiple Unit, which is currently being procured by the DfT. A Vehicle Change proposal will be undertaken to support 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**

The operation of an hourly service between Coventry and Leamington Spa, to serve the new Kenilworth station, is specified by the DfT as part of the Train Service Requirement for December 2017 for the next West Midlands franchise. As the current West Midlands franchise ends on 15th October 2017 then London Midland will be requesting these rights on behalf of the next franchisee.

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**

The operation of the service is being supported by the New Stations Fund package, awarded to Warwickshire County Council in 2013 to fund the delivery of the new station and supporting service.

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**

The proposed service has not been specifically discussed with Transport Focus.

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**

Kenilworth Station (and the accompanying train service between Coventry and Leamington Spa) was incorporated into the current West Midlands and Chilterns Route Study (draft) as a base assumption, and therefore forms part of the starting point for the study.

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**

Note the enhancement proposals listed in section 6 below.

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**

Note the enhancement proposals listed in section 6 below.

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 is in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

The services will be monitored for performance throughout their journeys.

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**

Not applicable

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**

The December 2017 shuttle timetable assumes four key infrastructure changes will be delivered to support the robust operation of the service:

- Provision of the new station platform at Kenilworth.
- Modification to signal overlaps at Kenilworth Loop to allow faster reoccupation times, and

enhancing line capacity and performance.

- Installation of a new 40mph Up – Down crossover on the branch line near Leamington Spa, plus signalling changes, to enable services to arrive/depart from Platform 4 at Leamington Spa directly towards Kenilworth.

Network Rail has committed to delivering these infrastructure upgrades by PCD 2017. This is important because the TPR margins at Kenilworth for December 2017 have already been amended and published to reflect the shortened overlaps.

A Network Change for these works is due to be published by Network Rail in mid-August 2017.

A Network Change for the construction of the new station (NC/G1/2015/LNW/650) was published in August 2015 and established in October 2015.

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**

Not applicable

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**

Not applicable

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**

The proposal between the parties has been submitted with this application and there are no side letters or other documents which affect it.

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**

None

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**

An industry consultation was conducted by Carew Satchwell of Network Rail (LNW), which took place between 3rd June and 1st July 2016. The following parties were consulted;

Arriva Trains Wales, Chiltern Railways, CrossCountry, East Midlands Trains, GTR, Arriva Rail London, Merseyrail, Northern Rail, ScotRail, Transport Scotland, Serco, SWT, TPE, Virgin Trains, Freightliner, GB Railfreight, HP UK, MDS Transmodal, Rail Freight Group, Colasrail, Harsco, DB Cargo, DRSL, Maritime Transport, Rail Ops Group, Victa-Railfreight, HS1, GWR, DB Cargo, Alliance Rail Holdings, HS2 Ltd, DfT, TfL, MerseyTravel, TfWM, London TravelWatch, Transport Focus.

Responses were received from Transport Focus, GWR, Virgin Trains, Chiltern Railways, CrossCountry and Freightliner.

Copies of all responses received have been attached to this application.

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.

GWR responded on 3rd August 2017 requesting sight of any performance modelling showing the impact of southbound CrossCountry and freight services heading towards Oxford. London Midland responded on 8th August 2017 with a copy of the Tracsis performance modelling undertaken and highlighted the specific modelled impacts south of Leamington Spa.

Virgin Trains responded twice – firstly on the 8th July 2017 requesting details of any likely impact on station staffing at Coventry (in terms of additional dispatch staff) if the service is increased to 2tph. London Midland responded on the 19th July 2017 confirming that there were no immediate plans to increase the level of service beyond 1tph.

Virgin Trains responded again on 9th August 2017 requesting details of the likely performance impact at Coventry Station. London Midland responded on 15th August 2017 with a copy of the Tracsis performance modelling report and highlighted the specific impact on VT services, as quantified in the report.

There has been no subsequent follow-up from either GWR or Virgin Trains on these issues, so they

are considered to be resolved.

Chiltern Railways responded on the 9th August 2017, and CrossCountry responded on the 10th August 2017, raising similar concerns in relation to:

- The timings shown in the Form P in comparison to the actual timings offered by Network Rail for December 2017.
- The proposed turnaround times at Coventry and Leamington Spa, which Chiltern Railways considered to be non-compliant with the TPR.
- The performance modelling undertaken by Tracsis, in that the extent of the modelled geography did not extend far enough to provide an accurate enough view of the performance risks.

Chiltern Railways also raised a challenge relating to the proposed use of a Class 153, with a perceived risk of crowding due to its relatively low passenger capacity.

In addition to other affected operators, both Chiltern Railways and CrossCountry were invited to a cross-industry meeting on the 25th September to discuss all of the issues raised by respondents to the industry consultation. London Midland and Network Rail then also wrote formally to both operators to address the concerns raised. The issue of TPRs and the performance modelling was discussed at length at the meeting on the 25th September, and it was acknowledged that despite the modelling having some limitations, the amount of performance modelling that had been undertaken to support this project so far was extensive, and the attendees ultimately agreed that no further modelling was necessary to highlight the risks. The issue of rolling stock was also addressed via West Midlands Trains' proposal to use a higher-capacity Class 172 instead of a Class 153.

These issues are therefore considered to be resolved.

Freightliner Group Ltd responded to the consultation on 10th August 2017, raising concerns about the perceived lack of stakeholder engagement, and also queried whether any alternative option for a stopping service had been considered, challenging the economic value of a single-car Class 153 hourly service.

London Midland and Network Rail responded formally to Freightliner on the 10th October 2017, disagreeing with Freightliner's assertion about stakeholder engagement, and reiterating the extensive engagement with affected operators that dates back more than two years. The response listed the dates of previous meetings attended by Freightliner where the Kenilworth project was discussed, and the separate occasions whereby offers were made to Freightliner to raise any concerns with the project.

The issue of service options was addressed by SLC Rail at the meeting 25th September. In the response to Freightliner on the 10th October 2017 London Midland and Network Rail confirmed that the requirements for the new Kenilworth service (in terms of an hourly service between Coventry and Leamington Spa) have been specified by the DfT as part of the SLC for the next West Midlands Franchise, and this therefore forms the basis for this application for access rights.

These issues are therefore considered to be resolved.

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.

In their respective responses, Chiltern Railways, CrossCountry and Freightliner all raised concerns regarding the performance risk to the wider network from the operation of this new service. CrossCountry were particularly concerned with the risks associated with the Sunday timetable, due to the presence of the additional CrossCountry service on Sunday afternoons.

An extensive amount of performance modelling has been undertaken to identify the risks associated with the introduction of this new service. Additionally, a number of performance mitigation meetings have been held between London Midland, Network Rail and other operators (primarily CrossCountry), to discuss possible contingency arrangements between Control teams. The Parties consider that the work undertaken so far to identify risks and mitigations has endeavoured to minimise the performance risks as far as reasonably possible. This was discussed again at the meeting on the 25th September and there was a broad comfort that efforts to mitigate the risks to the delivery of the timetable on SX and SO had been addressed. Nonetheless, it is accepted that the operation of the service on Sundays will be not without risk, due to the tight interworking between freight services and the second CrossCountry service per hour that is currently routed between Coventry and Leamington Spa.

Nonetheless in its response to the industry consultation Chiltern Railways did declare support for the new station and the introduction of the new service in principle, and CrossCountry acknowledged the importance and benefits of introducing the new services to Kenilworth. Whilst there are some highlighted performance risks, the parties consider that the benefits arising from the introduction of the service, including the socio-economic benefits quantified in the business case (see above), and the realisation of the financial investment made by the DfT in the new station, outweigh the potential risks. Nonetheless it is proposed that if the rights are granted and the service is fully operational, the parties will commit to monitoring its performance through the relevant New St lines Local Delivery Group (LDG), a localised cross-industry forum to monitor performance delivery.

It is also recognised that the paths offered for December 2017 are contingent on Network Rail's delivery of the proposed infrastructure works at Milverton Jn and in the loop at Kenilworth, as the SRTs for December 2017 are contingent on the commissioning of these works. Whilst Network Rail is confident that these works will be commissioned in time (currently planned for the end of November), it is accepted that this item will remain unresolved until the physical works are complete.

Finally Freightliner Group raised a challenge in terms of the existing Southampton to West Midlands Freight train Lengthening project, and contended that the operation of the hourly shuttle service between Coventry and Leamington Spa reduced the ability to operate longer and heavier freight trains along this route. In responding to Freightliner, London Midland and Network Rail contended that the operation of the shuttle service only actually directly affected 4 of 36 daily paths on the route (as quantified in a report from network Rail, dated June 2017), and of far greater impact – according to the report, was the loss of the previously assumed doubling south of Milverton Jn, which was outside the scope of the Kenilworth project. Freightliner contended that approving the rights for the operation of the Kenilworth service would potentially jeopardise the returns on the investment made by the Government in the FTL project, but conversely the Government has also invested in the construction of the new station at Kenilworth and supporting infrastructure works, in anticipation of some form of return from this project too.

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.

OFFICE OF RAIL REGULATION
ONE KEMBLE STREET, LONDON, WC2B 4AN

Switchboard 020 7282 2000 • Fax 020 7282 2041 • Website www.rail-reg.gov.uk

Form **P**

433399

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

Signed Date

Name (in caps) Job title

For (company)

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