

INDEPENDENT PHASE ONE PLANNING FORUM FOR HS2

PLANNING FORUM NOTE 5

CONDITIONS, REQUESTS FOR ADDITIONAL DETAILS & PARTICULARS RESERVED

1. The purpose of this note is to provide guidance and model wording for Schedule 17 conditions, requirements for additional details and particulars reserved for subsequent agreement, that a planning authority may impose when granting approval or issuing agreement under Schedule 17.
2. Planning conditions are a key component of the more widely used Town and Country Planning Act (1990) regime. Schedule 17 to the High-Speed Rail (London – West Midlands) Act ('the Act') provides a more constrained regime that distinguishes what may normally be considered as 'planning conditions' into three distinct types: conditions, requirements for additional details and particulars reserved for subsequent agreement. Each of these vary in when they can be applied as well as the associated requirements and scope.
3. Paragraphs 2(7), 3(7), 4(7), 6(6), 7(10), 8 (3) and 9(5) of Schedule 17 to the Act allows planning authorities to impose conditions on approvals.
4. Paragraphs 2(3), 3(4) and 7(4) of Schedule 17 to the Act allows planning authorities the ability to require additional details of the operation or work subject to the approval, to be submitted for subsequent approval.
5. Paragraph 12(6) of Schedule 17 allows for a scheme of restoration agreed or determined to reserve particulars for subsequent agreement between the nominated undertaker and the planning authority. Paragraph 12 of Schedule 17 does not make any provision for planning authorities to impose conditions.
6. In the preparation of this note regard has been paid to the following principles which stem from Schedule 17 and the Schedule 17 Statutory Guidance:
 - a. Conditions/additional details/particulars reserved must be relevant to the matter subject to the consent;
 - b. Conditions must relate to the relevant grounds for refusal of the consent;
 - c. Conditions/additional details/particulars reserved should not replicate other controls or commitments, including the High Speed Two Phase One Environmental Minimum Requirements¹; and
 - d. Conditions/additional details/particulars reserved should not pre-empt future requests for approval or agreement.
7. Conditions, requests for additional details or particulars reserved for subsequent agreements should not be imposed regarding the operation, maintenance, management and monitoring of works, as this outside of the scope Schedule 17 control².

¹ Paragraph 22 of the [Statutory Guidance - High Speed Rail \(London to West Midlands\) Act 2017: Schedule 17](#)

² Paragraphs 23 and 41 of the [Statutory Guidance - High Speed Rail \(London to West Midlands\) Act 2017: Schedule 17](#)

8. Conditions imposed by the planning authority under paragraphs 4(7), 6(6), and 7(10) of Schedule 17 can only be imposed with the agreement or approval of the nominated undertaker.
9. Conditions imposed by paragraphs 2(7), 3(7), 8(3) and 9(5); requests for additional details under paragraphs 2(3), 3(4) and 7(4); and particulars reserved for subsequent agreement under paragraph 12(6) of Schedule 17, do not require the approval of the nominated undertaker. Prompt collaboration between the planning authority and the nominated undertaker is encouraged to ensure potential conditions and requests for additional details are justified and in accordance with Schedule 17 to avoid unnecessary appeals.
10. Requests for additional details under paragraphs 2(3), 3(4) and 7(4) of Schedule 17 can only be made upon the approval of a plan or specification and should be added to the approved Schedule 17 decision notice. The consideration of any additional details submitted cannot subsequently require any modification to the plan or specification already approved.
11. Under Schedule 17 paragraph 9, a planning authority may only impose conditions on the approval of a scheme of mitigation under paragraph 9(5), but not on the approval of a request for the work to be brought into use under paragraph 9(1).
12. The requirement for any conditions imposed to require a modification is implicit in the relevant Schedule 17 grounds for determination. Modifications should be clearly described and specific in nature. There is no provision, requirement or process for, the nominated undertaker to discharge a condition imposed on a Schedule 17 approval; it is obliged to comply with any modifications imposed through conditions.
13. The wording of any conditions, requests for additional details and particulars reserved for subsequent agreement should reference the relevant paragraph and sub-paragraph in Schedule 17 and should be clear in what is required.
14. Effective and collaborative pre-application engagement between HS2 Ltd/contractors and planning authorities/statutory consultees, should remove the need for modifications through the imposition of conditions.
15. Where a planning authority wishes to provide further guidance upon the issuing of a decision it is open to the planning authority to specify informatives on a decision notice outlining relevant guidance or issues for consideration by the nominated undertaker.

Model Conditions

Plans and Specifications (Building Works – Paragraph 2) -

- I. Condition: Pursuant to Schedule 17 paragraph 2(7) High-Speed Rail (London – West Midlands) Act 2017 and notwithstanding the details of building works as approved on drawing number XXXXXXXXXXXXX revision XXX, the colour of the brick finish of the headhouse building is to be modified to be finished in engineering blue (RAL XXX).*

Reason: The design or external appearance of the building works ought to be modified to preserve the local environment.

Plans and Specifications (Building Works – Paragraph 2) -

- II. *Condition: Pursuant to Schedule 17 paragraph 2(7) High-Speed Rail (London – West Midlands) Act 2017 and notwithstanding the details of building works as approved on drawing number XXXXXXXXXXXXX revision XXX, the location of the Relocatable Equipment Building (REB) is to be modified by 1.5m directly south to allow for sufficient sight lines by vehicles using the adjacent highway.*

Reason: The design or external appearance of the building works ought to be modified to prevent or reduce prejudicial effects on road safety and the development ought to, and could reasonably be carried out elsewhere within the development's permitted limits.

Plans and Specifications (Other Construction Works – Paragraph 3) -

- III. *Condition: Pursuant to Schedule 17 paragraph 3(7) High-Speed Rail (London – West Midlands) Act 2017 and notwithstanding the details of fencing as approved on drawing number XXXXXXXXXXXXX revision XXX, fence locations are to be modified to provide for a required distance of 10 metres between fence lines to allow for an appropriate cantering route.*

Reason: The development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

Lorry Routes (Road Transport – Paragraph 6) -

- IV. *Condition: Pursuant to Schedule 17 paragraph 6(6) High-Speed Rail (London – West Midlands) Act 2017 and notwithstanding the arrangements approved in the list/map of routes to be used by Large Good Vehicles, the XXXXX Square gyratory shall only be used by vehicles egressing the XXXXX Worksite in the eventuality that no right-hand turn is available to vehicles exiting the Worksite onto XXXX Road. If a righthand turn is available, Large Goods Vehicles egressing the XXXX Approaches Worksite shall only travel southbound on XXXX Road.*

Reason: The arrangements ought to be modified to preserve the local environment or local amenity, and to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area.

Schemes of Mitigation (Bringing Scheduled Works into Use – Paragraph 9) -

- V. *Condition: Pursuant to Schedule 17 paragraph 9(5) High-Speed Rail (London – West Midlands) Act 2017 and notwithstanding the scheme of mitigation approved on drawing*

number XXXXXXXXXXXXXXX revision XXX, the planting mitigation species type XXXXXXXX is to be modified with species type XXXXXXXX to provide appropriate screening.

Reason: The scheme ought to be modified to preserve the local environment or local amenity.

Additional Details

Plans and Specifications (applicable to Building Works – Paragraph 2, Other Construction Works – Paragraph 3, and Waste and Soil Disposal and Excavation – Paragraph 7) -

- I. Pursuant to Schedule 17 paragraph [2 (3), 3(4) or 7(4) – delete as appropriate] of Schedule 17 to the High-Speed Rail (London – West Midlands) Act 2017, the following additional details are required to be submitted to, and approved in writing by the planning authority prior to their installation:*

- samples of [materials / finishes – delete as appropriate] to be used at [insert name of building or works].

Particulars Reserved for Subsequent Agreement

Site Restoration Scheme (Site Restoration – Paragraph 12)

- I. Pursuant to Schedule 17 paragraph 12(6) of the High-Speed Rail (London – West Midlands) Act 2017, full details of the species mix for areas of grassland planting are required to be submitted to and agreed in writing by the planning authority prior to implementation.*