

# Fee and Appeal Regulations

## Progress to date

- HS2 Ltd proposed that the fee and appeal regulations for HS2 would be based on those for Crossrail – May Planning Forum
- Forum members were asked to review these and provide comments – May & July Planning Forum.
- No comments were received.
- Draft SIs have been prepared on the basis of principles shared in May.
- Presentation today will run through the key elements of them.

# Appeal Regulation (1)

- **Regulation 3** - Regulations will apply to any appeal under paragraph 22 of Schedule 17.
- **Regulation 4** – Notices or representations must be submitted by post or electronic transmission.
- **Regulation 4** – Written agreement needed to the use of electronic transmission. Possible to require paper copies.
- **Regulation 5** – Notice of appeal must be given in the form in Schedule 1 to the Regulations.

## Appeal Regulation (2)

- **Regulation 6** – As soon as reasonably practicable after the receipt of the appeal notice Ministers must confirm to the appellant and authority:
  - a) The start date
  - b) The reference number for the appeal
  - c) The address to which the appeal applies
  - d) The address for written communication to Ministers.

# Appeal Regulation (3)

- **Regulation 7** – within 7 days beginning with the start date authorities must serve notice on third parties:
  - ▶ summarise the request to which the appeal relates, and the grounds of the appeal;
  - ▶ contain the information specified in regulation 6;
  - ▶ inform third parties that they may, within a period of 21 days beginning with the starting date, submit representations to the appropriate Minister in respect of the appeal;
  - ▶ state that the appropriate Ministers will copy those representations to the appellant and to the authority;
  - ▶ state that copies of any representations already submitted to the authority about the request will be sent by the authority to the appropriate Ministers and the appellant.

## Appeal Regulation (4)

- **Regulation 8** – Authority has 14 days from starting date to submit questionnaire to the appropriate Ministers (see Crossrail regs Sch 2).
- Must at the same time send a copy to the appellant.
- Authorities may submit an additional statement. Must serve notice of its intention to do so within 14 days of the starting date and do so within 21 days of the starting date.

## Appeal Regulation (5)

- **Regulation 9** – The appellant may submit a response to the authority's questionnaire or statement.
- These must be submitted within seven days of receipt of the questionnaire or statement. They must be copied to the authority.
- The appellant and the authority may respond to third party representations.
- Must be submitted within seven days of receipt.

## Appeal Regulation (6)

- **Regulation 10** – Where the appellant submits representations under Regulation 9 the authority may submit representations in respect of this new matter. It has 14 days from the date of submission by the appellant.
- **Regulation 11** – The appropriate Ministers may in a particular case give directions setting later dates than those in the regulations.



# Appeal Regulation (7)

- **Regulation 12** – The determiner (Minister or appointed person) may make a decision at any time after:
  - a) a period of 7 days beginning with the date the authority sent the appellant a copy of its completed questionnaire or, if it submits one, a copy of its statement; or
  - b) where applicable, the period of 14 days in Regulation 10 where the authority has the opportunity to submit representations in respect of any new matter(s) that the appellant raised under Regulation 9whichever is the later.
- If no third party representations are submitted within the 21 days of the starting date, then the determiner may proceed to a decision if:
  - a) sufficient material has been submitted to enable the determiner to reach a decision; and
  - b) notice has been given by the determiner to the appellant and the authority of the intention to proceed to a decision.

# Fee Regulations (1)

- **Regulation 3** - Where the nominated undertaker makes a request to an authority, it must, subject to the exceptions set out in Schedule 1 to these Regulations, pay a fee to that authority in accordance with these Regulations.
- **Regulation 4** - Where the nominated undertaker makes a request to an authority, it must, subject to the exceptions set out in Schedule 1 to these Regulations, pay a fee to that authority in accordance with these Regulations.
- **Regulation 5** – Fees will be refunded if a request is made incorrectly.
- **Regulation 6** – Authorities may terminate requests if payment is not made within 6 weeks of the receipt of the request (unless the fee is disputed)

## Fee Regulations (2)

- **Regulation 7** – resolution of fee disputes. Appeal to the appropriate Ministers.

### **Schedule 1 to the Regulations**

- Paragraph 1 - No fee will be payable in respect of a request where, on the date of such request, there is in effect a written agreement between the nominated undertaker and the authority under which the nominated undertaker agrees to make a financial contribution to the authority's costs incurred in handling requests.

## Fee Regulations (3)

- **Paragraph 3** – Where a request for which the prescribed fee has been paid is withdrawn, and within a period of 12 months beginning with the date of the receipt by the authority of the request, a similar request is made, no fee will be payable in respect of that similar request.
- **Paragraph 4**- Where—
  - ▶ a request for which the prescribed fee has been paid is refused by the authority or is deemed to be so refused;
  - ▶ no appeal is made in respect of the refusal or deemed refusal; and
  - ▶ within a period of 12 months beginning with the date of such refusal or deemed refusal, a similar request is made,  
no fee will be payable in respect of that similar request.

# Fee Regulations (3)

**Paragraph 5** – a request for which the prescribed fee has been paid is refused, and an appeal is made in respect of it;

- ▶ the appeal is dismissed; and
- ▶ within a period of 12 months beginning with the date of the dismissal of the appeal, a similar request is made,  
no fee will be payable in respect of that similar request.

**Paragraph 4-** Where—

- ▶ a request for which the prescribed fee has been paid is refused by the authority or is deemed to be so refused;
- ▶ no appeal is made in respect of the refusal or deemed refusal; and
- ▶ within a period of 12 months beginning with the date of such refusal or deemed refusal, a similar request is made,  
no fee will be payable in respect of that similar request.

# Fee Regulations (4) Schedule 2 to the Regulations

<i>Category of development for which approval is sought</i> <sup>□</sup>	<i>Fee payable</i> <sup>□</sup>
<i>1. Plans and specifications for the following works</i> <sup>□</sup>	<sup>□</sup>
A <sup>¶</sup> (i) The erection, construction, alteration or extension of a building (including a transformer or telecommunications mast) excluding anything in D below. <sup>¶</sup> (ii) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression, or any other fences or walls. <sup>¶</sup> (iii) The erection, construction or installation of lighting equipment. <sup>□</sup>	<sup>¶</sup> (a) Where no gross floor space is to be created by the development, £195; <sup>¶</sup> (b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £195; <sup>¶</sup> (c) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £385; <sup>¶</sup> (d) where the area of gross floor space to be created by the development exceeds 75 square metres but does not exceed 3750 square metres, £385 for each 75 square metres or part thereof of that area; and <sup>¶</sup> (e) where the area of gross floor space to be created by the development exceeds 3750 square metres, £19,049; and an additional £115 for each 75 square metres or part thereof subject to a maximum of £250,000. <sup>□</sup>
B Where no gross floor space is to be created by the development. <sup>□</sup>	£195. <sup>□</sup>
C Road vehicle park. <sup>□</sup>	£195. <sup>□</sup>
D Construction, alteration or extension of any terracing, cuttings, embankments or other earth works. <sup>□</sup>	£195 for each 0.1 hectares or part thereof of the site, subject to a maximum of £1,950. <sup>□</sup>

# Fee Regulations (5) Schedule 2 to the Regulations

E The erection, construction, alteration or extension of a pedestrian access to the railway line.	£195.
F The disposal of waste or spoil or the excavations of bulk materials from borrow pits.	£195 for each 0.1 hectares or part thereof of the site area, subject to a maximum of £25,500.
G Additional details request.	£85.
H Non-material changes.	£195.
<i>2. Matters ancillary to development</i>	
A Handling of re-useable spoil or topsoil.	£195.
B Storage sites for construction materials, spoil or topsoil.	£195.
C Construction camps.	£195.
D Works screening.	£195.
E Artificial lighting.	£195.
F Dust suppression.	£195.
G Road mud control measures.	£195.
<i>3. Road transport</i>	
Arrangements concerning road transport.	£195.
<i>4. Bringing into use</i>	
Bringing scheduled works and depots into use.	£195.