

## INDEPENDENT PHASE ONE PLANNING FORUM FOR HS2

### PLANNING FORUM NOTE 9

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#### DECISION NOTICE GUIDANCE

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##### Introduction

1. This Planning Forum Note provides guidance to planning authorities on what information should be contained in a decision notice for a request for approval or agreement under Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 (the Act).

##### Referencing Matters for Approval

2. Under Schedule 17, requests will be made to the planning authority concerned for approval of the following matters (the “planning matters”):
  - building works (paragraph 2)
  - other construction works (paragraph 3)<sup>1</sup>
  - ancillary matters (paragraph 4)<sup>2</sup>
  - large goods vehicle routes on certain roads (paragraph 6)
  - waste and soil disposal or the excavation of bulk material from borrow pits (paragraph 7)
  - bringing in to use of scheduled works and depots (paragraph 9)
  - restoration of a site used for carrying out operations ancillary to the construction of the works specified in Schedule 1 to the Act, otherwise known as “the scheduled works” (paragraph 12).
3. In issuing a decision notice, a planning authority should set out for each planning matter the planning matter that is being approved, refused approval, or conditioned, with reference to the relevant paragraph of Schedule 17.
4. For example the decision notice could say *“The District Council has considered your request for approval of plans and specifications under paragraph 2 of Schedule 17 to the High Speed Rail (London – West Midlands Act 2017 and GRANTS APPROVAL for the plans and specifications as detailed below.”*
5. There may be instances where a request for approval covers two paragraphs. In such instances both paragraphs should be referenced.
6. For example the decision notice could say *“The District Council has considered your request for approval of plans and specifications under paragraphs 2 and 3 of Schedule 17 to the High Speed*

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<sup>1</sup> “other construction works” are construction of a road vehicle park; earthworks; sight, noise or dust screens; transformers, telecommunications masts or pedestrian accesses to railway lines; fences or walls; and lighting equipment.

<sup>2</sup> “ancillary matters” are defined in paragraph 4(2) as (a) the handling of re-useable spoil or topsoil; (b) storage sites for construction materials, spoil or topsoil; (c) construction camps; (d) works screening; (e) artificial lighting; (f) dust suppression; and (g) road mud control measures.

*Rail (London – West Midlands Act 2017 and GRANTS APPROVAL for the plans and specifications as detailed below.”*

### Conditioning and Refusals

7. The paragraphs of Schedule 17 set out above identify, for each planning matter, the grounds on which planning authorities can either refuse approval or impose conditions on approval. To impose any conditions or refuse approval, a planning authority should identify both the planning matter and the specific ground under which the approval is being conditioned or refused. If a planning authority is a qualifying authority – i.e. if it has signed the planning memorandum and has not been disqualified – then it will be able to rely on a wider range of grounds than a non-qualifying authority. Guidance on the imposition of Planning Conditions is provided in the Schedule 17 Statutory Guidance<sup>3</sup>.
  
8. In its decision notices, a planning authority will be expected to identify the specific sub-paragraph containing the grounds that are relevant to a conditioning or refusal of an approval, and to explain how the condition or refusal is relevant. For example, for building works, a condition could be imposed under the ground in paragraph 2(5)(a)(i), because that ground allows conditioning on the basis that “the design or external appearance of the building works ought to be modified to preserve the local environment or local amenity [...] and is reasonably capable of being so modified”. The planning authority should also, in that example, explain and give reasons as to why the design or external appearance ought to be modified to preserve the local environment or amenity.
  
9. The grounds for the planning matters are set out in full in Schedule 17 to the Act, and can be found within the paragraphs identified in the following table.

Type of development	Matter subject to planning authority approval	Grounds for refusal or imposing conditions
Building works, para 2	Plans and specifications	For a qualifying authority: see paragraph 2(5) For a non-qualifying authority: see paragraph 2(6)
Other construction works, para 3	Plans and specifications	See paragraph 3(6)
Ancillary matters, para 4	Arrangements	See paragraph 4(6)
Large good vehicle routes on certain roads, para 6	Arrangements	See paragraph 6(5)
Waste and soil disposal or the excavation of bulk material from borrow pits, para 7	Plans and specifications	See paragraph 7(7) and (8)
Bringing into use of scheduled works and depots, para 9	Bringing into use of scheduled works (except underground work) and depots	See paragraph 9(5), and note the obligation to grant approval if paragraph 9(4) is met
Restoration of a site for operations ancillary to the construction of the scheduled works, para 12	A site restoration scheme	Note that the requirement to agree a site restoration scheme does not apply to a site where paragraph 12(9) applies

<sup>3</sup> <https://www.gov.uk/government/publications/high-speed-rail-london-to-west-midlands-act-2017-schedule-17-statutory-guidance>

10. In some cases, the planning authority can only impose conditions with the agreement of the nominated undertaker. This is relevant to paragraphs 4, 6 and 7 of Schedule 17. In those circumstances, that agreement will need to be sought and the decision notice should make reference to the nominated undertaker's agreement.

## 1. Introduction

Local Authorities may wish to attach informatives to decision notices relating to approvals issued pursuant to Schedule 17 to draw attention to important matters relevant to the decision.

This Appendix provides model Informatives that could be applied by Local Authorities in order to draw attention to controls that need to be complied with under the Environmental Minimum Requirements.

## 2. Informatives

### ***Informative on adherence to the EMRs***

In accordance with assurances given by the Secretary of State, the applicant is reminded that HS2 Phase 1 Environmental Minimum Requirements must be fully complied with in undertaking the works.

### ***Informative on adherence to the Code of Construction Practice during construction***

In accordance with assurances given by the Secretary of State, the applicant must adhere to the details and working practices in relation to site preparation and investigations, remediation, demolition, material delivery, excavated material disposal, waste removal and related engineering and construction activities set out in the HS2 Phase 1 Code of Construction Practice.

In particular, the applicant must....

- *[The Informative could draw attention to any part of the Phase 1 CoCP which is considered particularly relevant to the management of the construction of works that have been approved under Schedule 17].*

### ***Informative on adherence to the Class Approval***

The applicant is reminded that all works must be undertaken in accordance with the arrangements approved by the Secretary of State in the 'Class approval for matters ancillary to development under Schedule 17' (March 2017).

### ***Informative on environmental management during construction***

The applicant must adhere to the *[insert council area]* Local Environmental Management Plan which sets out local control measures and standards to be adopted by HS2 Contractors working within the *[insert council area]*.

### ***Informative on ecological habitat creation areas***

The applicant is reminded that in accordance with the HS2 Phase 1 Environmental Memorandum, Ecology Site Management Plans are required to be produced at detailed design stage and prior to any works commencing on site. These will specify the ecological objectives of each ecological habitat creation area, the measures to be taken to establish and maintain these habitats, the detailed planting requirements and the monitoring regime for each, in order to measure success.

### ***Informative on construction traffic management***

In accordance with the Phase 1 Code of Construction Practice, the applicant must adhere to the control measures set out in the HS2 Phase 1 Route-wide Traffic Management Plan and the *[insert council area]* Local Traffic Management Plan. The measures contained in the Local Traffic Management Plan must be kept under review during the execution of the works, in consultation with *[insert highway authority]* and other relevant stakeholders.

***Informative on historic environment investigations and reporting***

In accordance with the HS2 Phase 1 Heritage Memorandum, the applicant must adhere to the general principles for design, evaluation, investigation, recording, analysis, reporting and archive deposition to be adopted for the design development and construction of the scheme, in accordance with the HS2 Historic Environment Research and Delivery Strategy (GWSI: HERDS), and to any relevant location specific archaeological Written Scheme of Investigation.

***Informative on adherence to U&As***

The applicant is reminded that undertakings and assurances in the HS2 Phase 1 Register of Undertakings and Assurances must be fully complied with in undertaking the works.

***Informative on mitigation and Bringing Into Use requests***

The applicant is reminded that prior to the bringing into use of relevant scheduled works, approval from the Council will need to be obtained under Schedule 17 (paragraph 9) to the HS2 Act. The Council will need to be satisfied that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity.

***Informative on S61 CoPA***

The applicant is reminded that it is to seek to obtain consents under s61 of the Control of Pollution Act 1974 from the Council. The works will be carried out in accordance with the s61 consents to ensure that residential amenity is protected during the temporary construction period.

***Informative on site restoration agreements***

The applicant is reminded that within four months of the discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, the site must be restored in accordance with a scheme agreed with the planning authority, in accordance with paragraph 12 of Schedule 17 to the HS2 Act.

***Informative on comments on Indicative Mitigation Schemes***

In accordance with Planning Forum Note 10; comments provided by *[insert local planning authority]* on *[insert date of indicative mitigation consultation response]* on the indicative mitigation scheme provided by the applicant for consultation *[insert HS2 document number]*, should be considered in the preparation of mitigation works and requests for approval under paragraph 9 of Schedule 17.