



Department
for Transport



Ministry of Housing,
Communities &
Local Government

Pieter Claussen
DLA Piper UK LLP
Victoria Square House,
Victoria Square
Birmingham
B2 4DL

Our ref: APP/HS2/2
Your ref:

4 November 2019

Dear Mr Claussen

**APPEAL AGAINST REFUSAL BY LONDON BOROUGH OF HILLINGDON COUNCIL
OF SCHEDULE 17 SUBMISSION FOR APPROVAL OF LARGE GOODS VEHICLE
(LGV) ROUTES (LORRY ROUTES)**

**WORKSITES TO THE WEST OF HARVIL ROAD AND NORTH OF MOORHALL
ROAD, HAREFIELD**

APPLICATION REF: 74320/APP/2018/3986

1. I am directed by the Secretary of State for Transport and the Secretary of State for Housing, Communities and Local Government (“the Secretaries of State”) to say that consideration has been given to the report of the Inspector, Kevin Gleeson BA MCD MRTPI, submitted on 6 August 2019 into your client’s appeal against a failure to give notice within the prescribed period of a decision on an application to approve a submission in accordance with application ref: 74320/APP/2018/3986, dated 5 November 2018 (“the Schedule 17 application”).

2. On 22 July 2019, this appeal was recovered for the Secretaries of State’s determination, in pursuance of paragraph 23(1) of Schedule 17 to the High Speed Rail (London to West Midlands) Act 2017 (“the HS2 Act”). The HS2 Act authorises the construction of the HS2 railway from London Euston to Birmingham, which is referred to as Phase One of the HS2 project.

Ministry of Housing, Communities & Local
Government
Phil Barber, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF
Tel: 0303 444 2853
Email: PCC@communities.gov.uk

Department for Transport
Paul Stewart, Decision Officer
High Speed and Major Rail Projects Group
Great Minster House
33 Horseferry Rd
London
SW1P 4DR
Tel: 07917 094149
Email: HS2notices@dft.gov.uk

3. HS2 Ltd submitted the Schedule 17 application on 5 November 2018. As stated in paragraph 1.4 of HS2 Ltd's Statement of Case, HS2 Ltd and the London Borough of Hillingdon ("the Council") agreed to extend the appropriate period for determination of the application to 9 April 2019.

4. The Council did not determine the application within the agreed determination period. Therefore, in accordance with paragraph 22(3) of Schedule 17 to the HS2 Act, the Appellant may treat a submission as having been refused by the Council.

5. A copy of the Inspector's Report is enclosed with this letter. As stated in the Inspector's Report (IR) at IR11, the Council's case was that it would have refused the application on the basis that HS2 Ltd was not prepared to accept all three conditions which the Council sought to impose.

6. HS2 Ltd gave notice of their appeal against the refusal of this Schedule 17 application on 22 May 2019. On 23 July 2019, the parties were notified that this appeal would be subject to the joint determination by the Secretaries of State, pursuant to paragraph 23(1) of Schedule 17 to the HS2 Act.

Summary of the Secretaries of State's decision

7. The Inspector recommended that the appeal be allowed, and the application approved subject to the imposition of the condition at Annex A of the IR. For the reasons given in this letter, the Secretaries of State agree with the Inspector's recommendation. They have decided to allow the appeal and to grant approval for the application subject to the imposition of the condition at Annex A of this letter.

The Secretaries of State's consideration

8. Paragraph 6(5) of Schedule 17 to the HS2 Act sets out the grounds on which a relevant planning authority may refuse applications for arrangements relating to road transport. Paragraph 6(6) of Schedule 17 to the HS2 Act sets out the circumstances under which conditions can be imposed by the relevant planning authority.

9. The Inspector summarised the cases for the parties to the appeal at IR12 to IR48.

10. The Secretaries of State consider that the Inspector has correctly identified the main issues in the appeal at IR53, as follows:

(1) whether a refusal of approval is justified on the grounds under paragraphs 6(5) and 6(6) of Schedule 17; and

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(2) whether the submission made to the Council provided sufficient information about the impact of the arrangements to enable the Council to determine the application under Schedule 17.

First Main issue - Justification of refusal

Condition 1

11. For the reasons given at IR50 to IR52, the Secretaries of State agree that it is appropriate to impose Condition 1 for the purpose of regulating the safe movement of vehicles turning out of the worksites.

Conditions 2 and 3

12. In relation to Conditions 2 and 3, for the reasons given in IR54 to IR62 the Secretaries of State agree with the Inspector that the Council has not provided sufficient justification for the imposition of either condition. The Secretaries of State agree that the Council has failed to provide sufficient evidence as to why the number of LGV movements should be limited and, specifically, why they should be limited by condition to no more than 16 movements per hour (IR57). This is greater than the number of LGV movements proposed by HS2 Ltd in the Schedule 17 application, and the Secretaries of State agree with the Inspector's view that, irrespective of whether the arrangements are reasonably capable of being so modified, this does not provide sufficient justification as to why the arrangements ought to be modified as the Council proposes by the imposition of Condition 2.

13. In relation to Condition 3, the Secretaries of State agree with the Inspector's reasoning in IR59 to IR61. By imposing a condition relating to the monitoring of LGV movements, the Council seeks to duplicate existing controls contained in the Environmental Minimum Requirements (EMRs) (IR61). Paragraph 4.4 of the Statutory Guidance states that the Schedule 17 procedure should not be used to modify or replicate controls set out in the EMRs. They further agree that the EMR/LTMP regime provides for monitoring of lorry movements which complies with the requirements of the Guidance, and as such the measures the Council propose would go beyond the tests of Schedule 17, rather than complying with them (IR61).

14. The Secretaries of State accordingly agree with the Inspector's conclusion (IR62) that the Council has failed to provide a convincing justification for refusal of the

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application or for the imposition of either Condition 2 or Condition 3 under paragraphs 6(5) and 6(6) of Schedule 17 to the HS2 Act.

Second Main Issue - Sufficiency of information

15. The Secretaries of State have had regard to the Inspector's analysis at IR63 to IR70. They consider that the information required to be submitted as part of a Schedule 17 application is that set out in paragraph 16 of Schedule 17 to the HS2 Act and such further information as is required by virtue of *Planning Forum Note 6*. They note the table which sets out what is required 'For Approval' and what is required 'For Information'. Therefore, they agree with the Inspector at IR65 that the application satisfies *Planning Forum Note 6* with regard to the information submitted for a plans and specification approval such as this matter.

16. As such, for the reasons given by the Inspector in IR63 to IR69, the Secretaries of State find that the information provided in support of the application was sufficient to satisfy the statutory requirements set out in Schedule 17 to the HS2 Act and *Planning Forum Note 6*. The level of information provided was appropriate and in compliance with the requirements of the HS2 Act and the EMRs.

Overall conclusion

17. The Secretaries of State agree with the Inspector that the appeal should be allowed subject to the imposition of the condition at Annex A to this decision letter.

18. They hereby allow your client's appeal and approve the Schedule 17 application for lorry routes for the following worksites:

Worksite 1 - Land to the west of Harvil Road, south of Dews Lane and north of footpath U34;

Worksite 2 - Land to the north of Moorhall Road approximately 350 metres south west from the crossing of the Grand Union Canal; approximately 270 metres north east from the crossing of the River Colne;

in accordance with application ref: 74320/APP/2018/3986 dated 5 November 2018 and subject to the Condition set out at Annex A of this letter;

19. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Schedule 17 to the HS2 Act.

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20. A copy of this letter has been sent to the Council.

Yours faithfully

Phil Barber

Paul Stewart

Phil Barber
Authorised by the Secretary of State
for Housing, Communities and Local
Government to sign in that behalf

Paul Stewart
Authorised by the Secretary of State
for Transport to sign in that behalf

Annex A – Condition

1a No Large Goods Vehicles shall turn right from Worksite 1 except vehicles associated with the 2 No. Cadent Gas worksites on Harvil Road during the non-busy period. The busy period is defined as the period of importation of hard-standing to undertake the test piling for Colne Valley Viaduct. All vehicles turning right from Worksite 1 shall be managed on site through a banksperson.

1b No Large Goods Vehicles shall turn right out of Worksite 2 (Moorhall Road).

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