
Report to the Secretaries of State for Transport and for Housing, Communities and Local Government

by Kevin Gleeson BA MCD MRTPI

**an Inspector appointed by the Secretaries of State for Transport and for Housing, Communities and
Local Government**

Date: 6 August 2019

HIGH SPEED RAIL (LONDON – WEST MIDLANDS) ACT 2017

LONDON BOROUGH OF HILLINGDON COUNCIL

APPEAL AGAINST REFUSAL OF SCHEDULE 17 SUBMISSION

Site visit made on 9 July 2019

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.

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- The appeal is made under paragraph 22(1), Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 (the Act) against a failure to give notice within the prescribed period of a decision on an application to approve a submission.
- The appeal is made by High Speed Two Limited (HS2 Ltd) against the Council of the London Borough of Hillingdon.
- The application Ref 74320/APP/2018/3986, is dated 5 November 2018.
- The development proposed is described as development authorised by the High Speed Rail (London to West Midlands) Act 2017 relating to lorry routes for the following 2.No. 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. Worksite 1 X:505950 : Y: 187700 Worksite 2 X: 504650 : Y: 188450.

Summary of Recommendation: That the appeal be allowed subject to the imposition of an agreed condition.

Procedural Matters

1. The Secretaries of State have directed that they will jointly determine the appeal under the terms of paragraph 23(1) of Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 (the Act). The direction was dated 22 July 2019 and the reason for the recovery of the case by the Secretaries of State was because it concerns proposals of major importance having more than local significance.
2. The appeal was made on the basis of the Council's failure to determine the submission within the prescribed period. Paragraph 22(3) of Schedule 17 requires the planning authority to notify the nominated undertaker, in this case the Appellant, of its decision on the application within the appropriate period. In failing to determine the submission within this timeframe the Council is deemed to have refused the application.
3. Following the lodging of the appeal the Council indicated that they would have refused the application had they been in a position to determine it, on the basis that the Appellant was not prepared to accept all three conditions which the Council proposed.
4. Whilst the description of development in the banner heading taken from the application form refers to development related to lorry routes, paragraph 6 of Schedule 17 specifically refers to the arrangements on the routes.

The Site and Surroundings

5. Worksite 1 is generally bounded by Dews Lane, Footpath U34 and Harvil Road to the east from which access to the site is obtained. Harvil Road is single carriageway and is the principal road linking Harefield and South Harefield in the north to Ickenham and the A40 to the south.

6. Dews Lane to the north is a private access for some residential properties, a car servicing workshop and the Hillingdon Outdoor Activity Centre (HOAC) which lies to the west of worksite 1. To the south Footpath U34 runs west from Harvil Road towards HOAC where the footpath turns northwards passing along the western boundary of the worksite. Further south lies the Chiltern Line, beyond which are several commercial and industrial premises.
7. Cadent Gas and Thames Water have specific compound areas within the overall worksite and share the same access as HS2 Ltd to worksite 1.
8. Worksite 2 lies to the north of Moorhall Road which is the principal access to and from the worksite. It is a mixture of woodland and some areas of cleared scrub/open tracks.
9. Immediately to the north of worksite 2 lies Korda Lake. The east of the worksite has an area of private grassland, a residential property and the private access which leads to an aggregate processing site, a sailing club and Broadwater Lake which all lie to the north east of the worksite. To the east of the worksite lies the Grand Union Canal and beyond that, the villages of Harefield and South Harefield. To the south lies Savay Lake and to the west and south west lies the River Colne together with areas of woodland and grassland.

The Proposal

10. Approval is sought in respect of the arrangements for the movement of large goods vehicles¹ (LGVs) numbering more than 24 daily movements, to and from the following worksites. This is to allow enabling works to be carried out by HS2 Ltd.

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.

The Case for the Council

11. Had HS2 Ltd not lodged the appeal, the Council's HS2 Planning Committee confirmed 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. Conditions may only be imposed by the planning authority on lorry route arrangements with the agreement of the nominated undertaker².
12. The approved lorry routes are largely rural in character with a mix of speed limits. They provide access to the strategic road network. The highly sensitive road network carries large volumes of traffic in peak hours including slow moving and turning HGVs.

¹ As defined in section 121 of the Road Traffic Act 1988: 'large goods vehicle' means a motor vehicle (not being a medium-sized goods vehicle within the meaning of Part III of this Act) which is constructed or adapted to carry or to haul goods and the permissible maximum weight of which exceeds 7.5 tonnes.

² Paragraph 6(6) of Schedule 17.

13. Concerns were identified about safe access to the worksites and the timing of lorry movements to avoid peak hours. In the absence of detailed traffic information to demonstrate the effect of vehicle movements the Council sought to modify the arrangements through the imposition of conditions in line with paragraph 6(5)(b)(ii) of Schedule 17, namely *'to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area'*.
14. The High Speed Two Phase One Environmental Statement (ES) indicated that the project would have a *'significant environmental effect'* on the local road networks particularly in the vicinity of the Swakeleys Roundabout. The scale of the impact was also demonstrated in evidence presented during the passage of the High Speed Rail (London to West Midlands) Bill through Parliament.
15. In response to a requirement in a legal agreement between the Council and HS2 Ltd³ transport modelling work confirmed that in the peak hours the road networks around Harvil Road and Swakeleys Road were at capacity. However, plans to signalise the Swakeleys Roundabout were not progressed.
16. The legal agreement⁴ requires a review of the programme for construction to include *'traffic management measures which may enable a reduction so far as reasonably practicable in the number of HGVs on the roads in the London Borough of Hillingdon in the AM Peak and the PM Peak'*. Whilst not commenting on the status of this review, the Council highlights the acknowledgment by HS2 Ltd of the need to manage traffic during these peaks. It notes that HS2 Ltd has not provided any further modelling as part of the submission or other Environmental Minimum Requirements (EMRs)⁵ which ensure that the HS2 project is delivered appropriately in environmental terms.
17. The Council's proposed Condition 1, to address safe access, has been modified in dialogue with HS2 Ltd and agreement on suitable wording has been reached between the parties. Consequently, I deal with the scope of this below⁶ while noting the Council's view that in agreeing the condition there is an implicit acceptance that the Local Traffic Management Plan (LTMP)⁷, which forms part of the EMRs, is not sufficient to deal with the safe movement of traffic.
18. The Council's second condition is:

'No more than 16 LGVs (large goods vehicles) movements per hour (8 onto the sites, and 8 off the sites) shall take place in peak hours (8am – 10am and 4pm to 6pm weekdays). No LGV movements from the sites shall take place before 8am or after 6pm.'
19. Highlighting a clear and obvious need for restricting LGV movements in peak hours the Council requested hourly breakdowns on the peak time movements of traffic. In response the Appellant identified an expectation that during the AM or PM peak an additional 8 heavy goods vehicles (HGVs) per hour may use the highway network, over a period of approximately 10 days for worksite 2 while for worksite 1 an AM and PM peak of 10 HGVs could occur⁸. The Council proposed a

³ Appendix 5 of the Council's Statement of Case (CSoC).

⁴ Clause 17.

⁵ <https://www.gov.uk/government/publications/environmentalminimum-requirements>

⁶ Paragraphs 50-52.

⁷ Appendix 18 of the Appellant's Statement of Case (ASoC).

⁸ Written Statement – Additional Information, February 2019 in Appendix 29 of the ASoC.

restriction on vehicle numbers which is higher than the levels of movements suggested by HS2 Ltd, thereby providing a degree of flexibility.

20. The Code of Construction Practice (CoCP)⁹, which is also part of the EMRs, states that '*the timing of traffic movements*' should, if appropriate be contained within LTMPs and records that the movement and timings of lorries is provided for in Appendix F to the LTMP. The LTMP provides no information on the hourly movements of vehicles which is seen by the Council as more important than the information on daily movements within Appendix F.

21. The third condition proposed by the Council is:

Prior to the commencement of lorry route movements associated with this consent, a detailed monitoring and reporting scheme shall be submitted to and approved in writing by the Local Planning Authority. The monitoring scheme shall include measures to track and record lorry movements, and the reporting scheme shall include the dissemination of this recorded information to the Local Planning Authority on a weekly basis. The reports shall demonstrate that the numbers identified in the submitted information, and those granted by condition 2 shall not be exceeded.

22. Through monitoring and reporting measures the condition would '*enforce its protection of the road network as allowed for by Schedule 17*¹⁰. It would require measures to be agreed with, and reported to, the Council, neither of which is provided for in the LTMP or reflected in the EMRs. Consequently, the condition is justified and does not duplicate an existing control. Additionally, HS2 Ltd has provided no evidence demonstrating how monitoring and reporting has been managed at their worksites to date.

23. The LTMP is regarded as a draft document and therefore has limited weight. It is not subject to a formal sign-off process from the local planning authority, with the requirement only to consult. Like other parts of the EMR, the LTMP is implemented through self-regulation with no formal approval procedures.

24. Reference was also made to a previous submission under Schedule 17 where the Council did not seek to impose conditions but included an informative, identifying peak hour traffic as a concern. This does not establish a precedent as it was the first submission concerning lorry route arrangements, the number of movements was a maximum of 40 LGVs daily and it did not need to consider the cumulative impact of HS2 traffic locally.

25. Commenting on the Judicial Review of APP/HS2/1, the Council notes that in both that appeal and this one, the Appellant failed to provide sufficient information in support of its Schedule 17 submission. In its High Court claim the Council relied upon established case-law to support the view that there must be sufficient information before a decision maker to allow the acceptability of an application or proposal to be judged, if the decision maker is charged with approving it¹¹. In addition, the Council references the public law principle that local authorities

⁹ Paragraph 14.2.5 of the CoCP of Appendix 13 of the ASoC.

¹⁰ Paragraph 3.4.1 of the CSoC.

¹¹ Padfield and Others v Minister of Agriculture, Fisheries and Food and Others [1968] and R. [On the application of] Austin v Wiltshire Council [2017].

should have all available and relevant information before them to make a 'Wednesbury reasonable' decision¹².

Conclusion

26. HS2 Ltd has failed to provide the Council with evidence to demonstrate that the highway network which is already at capacity will not be adversely affected by the proposals. In response the Council has sought to limit vehicle movements during peak hours through the imposition of condition 2 and to provide an appropriate enforcement regime through condition 3.
27. The Schedule 17 regime provides local authorities with a degree of local control. Without adequate information about the impact of the proposal the Council can apply conditions where arrangements ought to be modified and are capable of being so modified. The information which the Council has sought to enable them to take their decision does not modify or replicate controls within EMRs. Moreover, the EMR processes are related to engagement and consultation and do not provide for control over approvals available through the Schedule 17 procedures.
28. It should not be for the Council to demonstrate how the arrangements ought to be and could reasonably be modified when HS2 Ltd has failed to provide this information.

The Case for HS2 Ltd

29. The Act establishes a bespoke consent and control regime supported by various commitments made to Parliament, designed to manage the particular issues associated with a transport infrastructure project of national importance¹³. Statutory Guidance¹⁴ confirms that Schedule 17 '*puts in place a process for the approval of certain matters relating to the design and construction of the railway which requires that [HS2 Ltd] must seek approval of these matters from the relevant planning authority. As deemed planning permission has been granted by the Act requests for approval under Schedule 17 are not planning applications*'.
30. In noting comparisons between the deemed planning permission granted under the Act and that granted for an outline planning permission under the Town and Country Planning Act 1990 the Guidance states that '*under the Act the grounds on which the planning authority can approve further details and apply conditions are more constrained*¹⁵.
31. HS2 Ltd met the requirements of Schedule 17 in terms of the submission of necessary documentation in order for the Council, as a qualifying authority, to determine the application. Tables 4 and 5 of the Written Statement set out the expected maximum numbers of HGVs associated with each fortnight period of the works for worksites 1 and 2 respectively. For Worksite 1 account is also taken of Cadent Gas and Thames Water works using the same lorry routes to access the site.

¹² Associated Picture Houses Limited v Wednesbury Corporation [1948].

¹³ Paragraph 6 of Appeal Decision APP/HS2/1 at Appendix 7 of the ASoC.

¹⁴ Paragraph 3.1 of Appendix 9 of the ASoC.

¹⁵ Paragraph 3.2 of Appendix 9 of the ASoC.

32. The Council has not produced any evidence or given reasons why the submission ought to and is reasonably capable of being modified¹⁶. Accordingly, the appeal should be allowed subject to Condition 1¹⁷.
33. The EMRs together with the powers within the Act and Undertakings given by the Secretary of State ensure that the Council receives the necessary information. HS2 Ltd is contractually obliged to adhere to EMRs and to ensure that the impacts which have been assessed in the ES will not be exceeded¹⁸. The additional information which the Council seeks are present in the EMRs and the Council should not seek to replicate these controls.
34. The Planning Memorandum¹⁹, also part of the EMRs, requires that *'the authority shall include an explanation of why and how it considers modifications should be made and where'*²⁰. In signing the Planning Memorandum, the Council became a member of the Planning Forum and is obliged to take it and other EMRs into account when determining applications. Planning Forum Note 6²¹ confirms that HS2 Ltd will provide certain relevant supporting information when making a Schedule 17 application. *'A summary of the lorry route information from the LTMP which will include predicted LGV numbers and timings'* is to be provided for information purposes only.
35. Planning authorities are required to have regard to Statutory Guidance when considering a Schedule 17 application and should not seek to modify or replicate controls already in place, either specific to the HS2 project such as EMRs, or existing legislation²². It also emphasises that conditions should not be imposed which conflict with controls or commitments in the EMRs because those controls will have been considered necessary or sufficient by Parliament²³ in approving deemed planning permission for the railway. Similarly, reliance should not be placed on evidence presented in the ES because Parliament approved the scheme notwithstanding this impact.
36. Statutory Guidance also confirms that the purpose of Schedule 17 is *'to ensure that there is an appropriate level of local planning control over the HS2 Phase One construction works while not unduly delaying or adding cost to the project'*. In addition, paragraph 39 of the decision on APP/HS2/1²⁴ noted that it was not the purpose of the Schedule 17 procedure *'to replicate or police the process of investigation set out in the EMRs, but rather to complement it'*.
37. In respect of the imposition of conditions the Appellant indicates that any condition which conflicts with Statutory Guidance²⁵ will fail to comply with the

¹⁶ Paragraph 6(5) of Schedule 17.

¹⁷ See paragraphs 50-52.

¹⁸

https://assets.publishing.service.gov.uk/uploads/system/uploads/attachment_data/file/629173/hs2-development-agreement-july-2017.pdf

¹⁹ Annex 2 to the EMR at:

<https://www.gov.uk/government/publications/environmentalminimum-requirements>

²⁰ Paragraph 7.7.4 of the Planning Memorandum at:

<https://www.gov.uk/government/publications/environmentalminimum-requirements>

²¹ Appendix 14 of the ASoC.

²² Paragraph 4.4 of the Statutory Guidance at Appendix 9 of the ASoC.

²³ Paragraph 10.3 of the Statutory Guidance at Appendix 9 of the ASoC.

²⁴ Appendix 7 of the ASoC.

²⁵ Statutory Guidance paragraphs 4.4, 10.3 and 10.5.

National Planning Policy Framework (NPPF)²⁶ and the National Planning Practice Guidance (NPPG)²⁷ in respect of the test of necessity.

38. The relevant Route-wide Traffic Management Plan (RTMP)²⁸ sets a number of specific controls, thereby providing a specific EMR measure. It also provides for the monitoring of traffic movements and for action to be taken in the event of a breach of controls. Monitoring is also addressed specifically in the CoCP.²⁹
39. The relevant LTMP³⁰, prepared by the Appellant was subject to initial engagement with the Council although no comments were provided on the latest draft³¹. It identifies the proposed lorry routes and provides advice in relation to the access to and egress from worksites, monitoring arrangements and the number of vehicles using the route at particular times³².
40. Condition 2 has not been justified with reference to the need for a restriction on the number of LGVs during peak hours, whilst at the same time the Council acknowledges that daily movements have been addressed in Appendix F. Accordingly, the EMRs contain the necessary controls as to render the condition unnecessary as it duplicates what is already set out in another regulatory regime.
41. Moreover, the Appellant challenges the view that there is extensive evidence that clearly identifies the approved routes as a sensitive road network including during peak hours. Additionally, the Council has failed to produce evidence to justify a limit on LGV movements or justification for the limit being 16 vehicles.
42. Proposed Condition 2 is also described as being a deviation from the EMRs in being more restrictive than the hours of operation which are set through the EMR as 0700-1900 during weekdays and 0700-1400 on Saturdays.
43. The Appellant indicated that it had met its obligations under Clause 5 of the legal agreement³³ between the Council and the Appellant, and that the Council chose not to implement the scheme. Clause 6 states that '*HS2 Ltd will use reasonable endeavours to attain a maximum of 550 HGV movements per day... at Swakeleys Roundabout and to reduce as far as reasonably practicable the number of HGV movements at Swakeleys Roundabout during the AM Peak and PM Peak*'. This is a figure which is lower than that assessed in the ES.
44. In seeking to introduce a limit on the peak time movement of LGVs the Council is seeking to impose a control which does not appear in the ES and would modify the EMRs without justification. The Appellant continues to meet the legal obligations which do not include a requirement to restrict the number of LGVs during peak hours whereas the Council is seeking to renegotiate a previously agreed position between the parties.
45. The Appellant argues that the monitoring controls in Condition 3 are already set out within EMRs, through the RTMP, LTMP and CoCP and therefore duplicate

²⁶ NPPF Paragraph 55.

²⁷ NPPG paragraph 21a-005-20140306

²⁸ Table 4.2 of the RTMP at Appendix 17 of the ASoC.

²⁹ Paragraph 14.4 of the CoCP at Appendix 13 of the ASoC.

³⁰ Appendix 18 of the ASoC.

³¹ Paragraph 6.35 of the ASoC.

³² Appendix F of the LTMP at Appendix 21 of the ASoC.

³³ Appendix 5 of the CSoC.

another regime. This would impose a level of control on the submission which is not afforded to it by Schedule 17 and no evidence has been provided to justify its imposition.

46. The Council has also adopted an inconsistent approach in dealing with this submission compared with a previous submission. HS2 Ltd provided the same level of information in that case yet the Council included an informative in relation to peak hour traffic rather than seeking to impose a condition.
47. With regard to the application for Judicial Review in respect of Appeal APP/HS2/1 the Appellant's position is that it is not relevant to the determination of this appeal.

Conclusion

48. The Council are required to provide justification for the imposition of conditions which they have failed to do in the case of Conditions 2 and 3. It has not been demonstrated that the arrangements ought to be modified and are reasonably capable of being so modified. Moreover, the proposed conditions would duplicate controls which are already in place within EMRs.

Other Matters

49. Although there is no statutory obligation to consult on planning submissions under Schedule 17, I have noted the comments which the Council received in respect of the submission. Many of these comments relate to matters beyond the scope of the Schedule 17 application and are therefore not relevant in this case. I have had regard to those which are of relevance as set out above.

Condition 1

50. The Council and the Appellant have agreed that it is appropriate to impose a condition relating to the safe movement of vehicles. The agreed condition which is split into two parts to reflect the different worksites is presented at Annex A. A restriction on vehicles turning right when leaving the worksites was provided for in both the application itself and in the original LTMP. I find the condition to be necessary in order to address road safety issues.
51. In considering the appropriateness of this condition I have had regard to the tests under Schedule 17(5) and (6) and paragraph 55 of the revised NPPF which require conditions to be necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.
52. Furthermore, NPPG advises that conditions requiring compliance with other regulatory regimes will not meet the test of necessity. Consequently, any condition that conflicts with paragraphs 4.4 and 10.3 of Statutory Guidance will fail to comply with the NPPG and so will conflict with paragraph 10.5 of the Guidance. I find no conflict between this condition and the controls in EMRs or existing legislation.

Inspector's Conclusions

[Numbers in square brackets refer to previous paragraphs.]

53. The main issues are (1) whether a refusal of approval is justified on the grounds under paragraphs 6(5) and 6(6) of Schedule 17; and (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.

Justification for Refusal

54. Paragraph 6 of Schedule 17 requires development to be carried out in accordance with arrangements approved by the Council as a qualifying authority, where the routes are not a special road or trunk road and where there are more than 24 LGV movements daily.
55. In respect of Condition 2 the Council has not justified why the arrangements ought to be modified and therefore it has not been demonstrated that it is reasonably capable to modify the arrangements under paragraph 6(5)(b), namely to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area [32, 40, 41].
56. In addition, the need to demonstrate the reason for imposing a condition is highlighted in the Planning Memorandum which requires an explanation from the planning authority of why and how it considers the modifications should be made and where [34, 35, 36].
57. The Council has provided some evidence about the character of the lorry routes and surrounding roads, their sensitivity, and that the network, particularly around Swakeleys Roundabout is congested during peak hours [12, 14, 15, 16]. However, I find that this does not demonstrate that the proposed arrangements would have a prejudicial effect on traffic. No evidence is provided for limiting the number of LGV movements generally and no specific justification is provided for a maximum of 16 beyond being greater than the number suggested by HS2 Ltd and providing a degree of flexibility [19]. This does not provide sufficient justification as to why the arrangements ought to be modified irrespective of whether they are reasonably capable of being so modified.
58. Although the legal agreement between the Council and HS2 Ltd recognises the need to address traffic impacts within peak periods [16, 43, 44] it does not provide justification for a condition in respect of the appeal proposals.
59. Condition 3 seeks to provide a suitable enforcement regime to ensure compliance with Condition 2. In my view this fails for two reasons.
60. Firstly, such a condition would not be covered by any of the requirements of paragraph 6(5)(b). Although the condition would not be seen as unusual or excessive in terms of an appeal under the Town and Country Planning Acts and it may be a sensible mechanism for providing enforcement, that is not one of the reasons which is allowed for the imposition of conditions in Schedule 17 [29, 30, 45].
61. Secondly, to impose a condition relating to monitoring would be to duplicate an existing control. It would also conflict with the controls and commitments contained within the EMRs and is therefore not in accordance with the advice in paragraph 4.4 and section 10 of the Statutory Guidance [37,38]. Furthermore, the EMR/LTMP regime provides for monitoring of lorry movements which complies with the requirements of the Guidance. Accordingly, the measures which the Council propose would go beyond the tests of Schedule 17 rather than complying with them [33, 42].

62. In terms of the requirements of the Act and the Planning Memorandum it is for the Council to provide the justification for refusing approval of the application. The justification provided falls far short of the requirements of paragraphs 6(5) and 6(6) of Schedule 17.

Sufficiency of Information

63. Through paragraph 16(1) of Schedule 17 there is a statutory requirement to provide the authority with information about the proposal including a document explaining how the matters fit into the overall scheme of works for the project. Furthermore, Planning Forum Note 6 identifies further information which HS2 Ltd must submit in support of a submission [33, 34].

64. Specifically, there is a requirement to provide, for information, a summary of the lorry route information from the LTMP which will include predicted LGV numbers and timings. The Appellant provided this information in its Written Statement [31].

65. In terms of vehicle movements which relate to proposed Condition 2, I find that the information provided to the Council was in accordance with the requirements of Planning Forum Note 6. The Council has not taken the opportunity to contribute to this document, which as an EMR is not subject to considerations of weight. While the Council wished to have more detailed information about vehicle movements on an hourly basis [13, 20], I consider that the application complied with the requirements provided by the Act and EMRs, providing the appropriate level of information.

66. The LTMP whilst subject to consultation with the Council, does not require the Council's approval and does not provide a level of enforcement which the Council seeks [22, 23, 39, 45]. Nevertheless, as part of the EMR it forms a commitment which, as the Guidance advises, conditions should not conflict with. Consequently, although it is a HS2 Ltd document it is the basis on which the Act determines that submissions under Schedule 17 should be addressed [33].

67. I see no contradiction between accepting a condition relating to the arrangement for lorry movements while arguing that the LTMP is the appropriate place to set out those movements [17]. In accepting Condition 1 I have recognised that the controls complement those in the EMR.

68. I have had regard to the advice in paragraph 4.4 of the Statutory Guidance which states that the approvals have been carefully designed to provide an appropriate level of local planning control while not unduly delaying or adding cost to the project [35, 36].

69. I have also had regard to the previous lorry route submission which both parties have commented upon. While the Council dealt with matters relating to the impact of peak hour traffic through an informative, the circumstances in the previous case are not directly comparable with those which apply in this case. I have, in any event, reached my own conclusions in this case on the basis of the evidence before me for the reasons given above [24, 46].

70. With regard to the application for Judicial Review of Appeal APP/HS2/1 I have considered the views of the Council and the Appellant following my request for comments on its relevance to the current appeal. I note that the application for Judicial Review was initially refused although the Council's application for renewal

has been accepted. In the absence of the Court's ruling there is no need for me to comment on the case [25, 47].

Recommendation

71. I recommend that the appeal is allowed, and the application approved subject to the imposition of the condition at Annex A.

Kevin Gleeson

INSPECTOR

SUGGESTED PLANNING CONDITION

Annex A

- 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).