

INDEPENDENT PHASE 2A PLANNING FORUM FOR HS2

PLANNING FORUM NOTE 18

WASTE AND SPOIL DISPOSAL AND EXCAVATION FROM BORROW PITS

Introduction

1. This Planning Forum Note (PFN) provides guidance to planning authorities on matters relating to the disposal of waste and spoil and the excavation of bulk materials from borrow pits under Schedule 17 to the High Speed Rail (West Midlands – Crewe) Act 2021 ('the Act'). The relevant planning authority for these activities is the unitary authority or, in a non-unitary area, the county council in whose area the development is carried out. The relevant planning authority must be a 'qualifying authority'¹ for the purposes of giving approvals under paragraphs 7 and 8 of Schedule 17 in relation to waste and spoil disposal and excavation from borrow pits.

Approach and Works Clarifications

Schedule 17 Approach

2. Works involving waste and spoil disposal and excavation from borrow pits must be carried out in accordance with plans and specifications approved by that qualifying authority under paragraphs 7 and site restoration under paragraph 8 of the Act, under the grounds for decision summarised in Table 1.

Table 1 Scope of Approval Summary

Scope of Approval – Grounds for Decision	
Paragraph 7(7)– Plans and Specification – All Submissions	<ul style="list-style-type: none">• Design or external appearance• Methods by which sites or pits are worked• Noise, dust, vibration or screening arrangements
Paragraph 7(8) – Plans and Specification – Only where the works are outside Limits of Deviation or on land not identified in Schedule 6 ²	<ul style="list-style-type: none">• The development ought to and could reasonably be carried out elsewhere within the developments permitted limits to:<ul style="list-style-type: none">○ Preserve the local environment or local amenity○ Prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area○ Preserve a site of archaeology or historic interest or nature conservation value
Paragraph 8(3) – Site Restoration	That the scheme ought to be modified, and is reasonably capable of being modified

3. Works to sites for which approval is secured under paragraph 7 can only commence once an approved scheme is in place for the restoration of the land (which may include aftercare) under paragraph 8. Site Restoration under paragraph 12, including where the nominated undertaker is subject to an obligation under Schedule 15, does not apply where approval is needed under paragraph 8.

¹ <https://www.legislation.gov.uk/uksi/2021/151/made>

² See Paragraph 7(9) of Schedule 17

4. The requirements of paragraph 2 and 3 of Schedule 17 do not apply where development is ancillary to matters subject to approval under paragraph 7. Such ancillary matters could include temporary buildings and access roads to service the works to be approved under paragraph 7.
5. No approval is required for arrangements covered by the proposed Class Approval³ for matters under paragraph 4, including the handling of re-useable spoil and topsoil, and storage sites for construction materials, spoil or topsoil. However, if it is proposed to deviate from the terms of the Class Approval, an approval under paragraph 4 to the revised arrangements would be required from the relevant qualifying authority.

Works Clarifications

6. The use of excavated material within the Proposed Scheme will be managed in accordance with the Definition of Waste: Development Industry Code of Practice ('DoWCoP') published by CL:AIRE, and includes the preparation of a Materials Management Plan, or in accordance with an appropriate environmental permit or exemption from permitting, under the Environmental Permitting (England and Wales) Regulations 2016 (as amended). No planning approval is required to remove waste from a site.
7. Paragraph 7 requests for approval will be needed where excavated material is considered surplus, i.e. where it does not have a use for engineering or environmental works within the Proposed Scheme. Such approvals would include works for on-site disposal (i.e. local placement) to avoid local environmental impacts. These works are different to structural earthworks as defined under paragraph 3(9) of Schedule 17 which are engineering works, which include environmental mitigation.
8. Where an environmental permit is also required for development approved under Schedule 17, applications should be coordinated to ensure decisions are made in a logical order.

Content of Submissions

9. The content of requests for approval under paragraph 7 and 8 should comprise the documents set out in Table 2.

Table 2 Content of Submissions

For Approval under Paragraph 7 and 8		
Submission Proforma	See Appendix A	
Drawings	<u>Type</u>	<u>Suggested Scale*</u>
	Site Plan / Location Plan	1:5,000 – 1:10,000
	General Arrangements / Site Restoration / Plan and Profile	1:1,000 – 1:2,500
	Elevations	1:25 – 1:250
	Cross Sections	1:100 – 1:250
Where hard copies are required, drawings will be standardised at A1, apart from location / general site layout plans which are likely to be at A3.		

³ <https://www.gov.uk/government/publications/high-speed-rail-west-midlands-crewe-act-2021-class-approval>

Materials and Finishes (where appropriate)	Description of material and finishes to be used Suggest scale*: 1:5 – 1:50 (and samples where appropriate)
Works Method Statement	Paragraph 7 Plans and Specifications – See Table 4
Site Restoration and Aftercare Plan	Paragraph 8 Site Restoration – see Table 5
For Information	
A Submission letter	See Appendix B
A Written Statement	See Table 3

* The suggested scales of plans are provided as guidance only. The exact scales of plans will be appropriate to the specific circumstances and agreed with the planning authority prior to submission. Any drawings for ancillary works should follow the guidance in PFN1.

10. Submission should be made via the Planning Portal following the guidance in PFN8.

11. As the elevation profile of earthworks involving waste and spoil disposal is a relevant matter for approval under paragraph 7, the Works Method Statement information will need to address the arrangements for the disposal of these materials (including any base layers). However the backfill of borrow pits and elevation profiles will be addressed as part of paragraph 8 approval for site restoration.

Plans and Specifications (Paragraph 7)

Table 3 Content of Written Statement

Section	Content
Introduction	<ul style="list-style-type: none"> • Introduces the Project, the HS2 approvals regime under Schedule 17 and the requirements placed on the nominated undertaker. • Outlines the purpose of the document, the submission it is part of, and the works for approval. • Sets out the statement’s structure.
Location and Characteristics of the Area	<ul style="list-style-type: none"> • Description of land uses, main geographical features, main environmental characteristics (including information relating to sites of archaeological interest or historic interest and to sites of nature conservation value), highway network
Description of the Works / Construction Arrangements	<ul style="list-style-type: none"> • Outlines the works / arrangements, description of the main features, lists the works / arrangements for approval under the relevant section of the Act.
Design Criteria and Rational	<ul style="list-style-type: none"> • Describes the options analysed during the production of the design including: <ul style="list-style-type: none"> ○ an explanation of the constraints ○ adjustments to the design from the assumptions in the ES ○ an explanation to support the design option(s) chosen. ○ Where applicable <ul style="list-style-type: none"> ▪ An Archaeological Summary Statement in accordance with PFN17 Annex 1 (ii).

	<ul style="list-style-type: none"> ▪ Information relating to sites of nature conservation value in accordance with PFN17 Annex1 (v). ▪ Information relating to road safety or on the free flow of traffic in accordance PFN17 Annex 1 (vi). ▪ Information on local environment or local amenity in accordance with PFN17 Annex 1 (viii and ix). <ul style="list-style-type: none"> • Perspective drawings / photomontages will be provided (where appropriate)
Programme and Sequence of Works	<ul style="list-style-type: none"> • A high level description of the programme for the works, including site restoration, and how they fit into the programme for other works in the area.
Other associated main consents	<ul style="list-style-type: none"> • Identification of any other main consents associated with the work such as highways or water⁴.

12. A Works Method Statement is required to describe the methods by which the site will be worked, comprising of the contents set out in Table 4. This includes the relevant measures and mitigation (including screening) from the Code of Construction Practice (CoCP)⁵ and Information Paper D12: Borrow Pits⁶, such as:

- General Requirements (CoCP section 5)
- Measures to reduce potential impacts on agriculture, forestry and soil resources (CoCP section 6.2)
- Air Quality (including dust) Management (CoCP section 7), and will have regard to the Institute of Air Quality Management Mineral Guidance⁷
- Measures to reduce potential impacts on landscape and visual features (CoCP section 12.3)
- Noise and Vibration (CoCP section 13), including reference to the noise and vibration management plan
- Waste and materials (CoCP section 15), including reference to the materials management plan

Table 4 Content of Works Method Statement

Section	Content
Summary	<ul style="list-style-type: none"> • High level summary, including summary of controls that are already in place through the Environmental Minimum Requirements and environmental permitting regime (where relevant) • Construction Sites Plan, including phasing
Site Working Methods	<ul style="list-style-type: none"> • Details the generic / site specific methods that will be used to work the site • Estimates of materials for disposal, including management and placement (waste and spoil disposal submissions) • Estimates of materials for excavation (borrow pits submissions)

⁴The determination of Schedule 17 requests for approval is not linked to these consents.

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960219/Phase_2a_Code_of_Construction_Practice.pdf

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828994/D12_Borrow_Pits_v1.1.pdf

⁷ https://iaqm.co.uk/text/guidance/mineralsguidance_2016.pdf

Environmental Arrangements	<ul style="list-style-type: none"> • Details the generic / site specific controls that will be put in place for noise, dust, vibration and screening (including any works authorised by the Class Approval).
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13. Certain sections of the text to be included in the statements will be standard for all requests for approval, and Written Statements for paragraph 7 approvals will be updated for those under paragraph 8 where required or not submitted at the same time.

Site Restoration

14. A Site Restoration and Aftercare Plan is required to set out the restoration scheme for the site and will include specifications and schedules for implementation. The land will be restored to a condition suitable for its previous use, generally agriculture, with any other future uses requiring separate planning applications and environmental assessment (if necessary). Further details are set out in PFN 11.

15. There are other engineering works proposed within the extent of some borrow pits works (such as balancing ponds, access tracks and fences) which will need consent through Schedule 17. Where the restoration scheme for a site comprises works that require plans and specifications approval, the intention is to submit the request concurrently with the proposed site restoration scheme.

Table 5 Content of Site Restoration and Aftercare Plan (Paragraph 8)

Section	Content
Executive Summary	<ul style="list-style-type: none"> • High level summary of the Plan
Introduction	<ul style="list-style-type: none"> • Scope of the Statement and relationship with HS2 works and Schedule 17 requests for approval • HS2 Project Introduction • Restoration overview, with details of land-uses, and, where provided, access and fence lines
Backfill (borrow pits submissions)	<ul style="list-style-type: none"> • Materials to be used for backfill (including any base layers) • Management and placement of backfill material
Landscape and Ecology	<ul style="list-style-type: none"> • Including contours, landforms, soil reinstatement, planting schemes, habitat establishment, species mix, management of water resources and flood risk • Where permanent mitigation is proposed, include a written description of the mitigation setting out the effects it seeks to mitigate and how it would achieve this. If this includes permanent community mitigation or works which have a mitigating effect in relation to the operational noise from the railway or new road, then the relevant information requirements of in PFN12 should be followed. • Plans / drawings showing areas of landscape, earthworks, planting, with details of habitat creation, species mix • Perspective drawings / photomontages will be provided (where appropriate)

Aftercare Plan	<ul style="list-style-type: none"> • Details of aftercare period (generally up to five years as set out in paragraph 6.1.2 of the CoCP and HS2 Phase 2a Information Paper E20: Maintenance of Landscaped Areas⁸) following completion of restoration, including any habitat establishment periods and extended periods where ecological mitigation has been provided, or for land restored to agriculture where this is agreed with landowners or occupiers. • Monitoring arrangements from the CoCP and Environmental Memorandum⁹, and the process for agreeing the satisfactory completion of each year's works prior to commencement of the subsequent year of aftercare.
Programme and Sequence of Works	<ul style="list-style-type: none"> • A high level description of the programme for the works, and how they fit into the programme for other works in the area.

Making Decisions

16. The decision making process for requests for approval under paragraph 7 and 8 should also follow the relevant guidance in the other PFNs, including PFN4 and PFN9 on consultations and decision notices. The following additional points are made:

- In non-unitary areas, a copy of the request for approval will be sent for information to the non-determining authority as required by the Planning Memorandum¹⁰ (section 7.5.5).
- Requests for approval for site restoration under paragraph 8 can be made at the same time as a paragraph 7 submission or follow on from it. These submissions should be coordinated with any other required Schedule 17 requests for approval for the works, such as those under paragraph 6.

17. There may be certain requests for approval that require further information. Annex 1 to PFN17 provides general guidance on the level and type of information which may be appropriate to Schedule 17 decisions. Through pre-application discussions planning authorities should identify to the nominated undertaker any additional information it considers is necessary to make a decision on the forthcoming request for approval.

Conditions

18. In accordance with the Act, the relevant planning authority can include conditions on a request for approval for these works (not this is different for site restoration under paragraph 12). Under paragraph 7, it may only do so with the agreement of the nominated undertaker¹¹.

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628466/E20_Maintenance_of_Landscaped_Areas_v1.0.pdf

⁹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960226/E176_Phase_2a_EMRS_Environmental_Memorandum.pdf

¹⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960222/E177_Phase_2a_EMRS_Planning_Memorandum.pdf

¹¹ See Paragraph 7(10) Schedule 17

19. Further general guidance is included Statutory Guidance¹² ('the Guidance') and PFN5 on conditions, with the following points to highlight specifically for paragraph 7 and 8 approvals:
- In line with paragraph 21 of the Guidance, the relevant planning authority can consider replicating controls from the EMRs through the Schedule 17 planning permission and / or conditions to the approval, noting that these controls should not be modified or conflict with them (see paragraph 19 and 50 of the Guidance).
 - In making the decision on the imposition of such conditions, the planning authority need to ensure the requirements of paragraph 55 of the National Planning Policy Framework (February 2019)¹³ are met, with the onus on it to demonstrate that the condition is justified and relevant to the grounds within the Act (paragraph 53 of the Guidance).
 - For Schedule 17 approvals that also require an environmental permit, planning authorities should also consider if it is relevant to impose conditions that would replicate the controls from the Environmental Permitting Regulations regime given the guidance in the National Planning Practice Guidance (NPPG)¹⁴.
 - Care should also be taken when considering using pre-commencement conditions, particularly given the linked nature of paragraph 7 and 8 decisions, as their use could unreasonably prevent a start on site for these works. Based on the guidance in the NPPG, such pre-commencement conditions should only be considered by planning authorities where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission.
 - Paragraph 7(4) of Schedule 17 gives planning authorities the ability to require additional details of the operation or work subject to the approval being submitted for approval
 - The use of conditions for site restoration under paragraph 8 is different to that under paragraph 12

¹² <https://www.gov.uk/government/publications/hs2-phase-2a-high-speed-rail-west-midlands-to-crewe-act-2021-schedule-17>

¹³ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

¹⁴ <https://www.gov.uk/guidance/use-of-planning-conditions>

Appendix A – Submission Pro forma

High Speed Rail (West Midlands - Crewe) Act 2021

Request for approval of

PLANS & SPECIFICATIONS

AUTHORITY REF:	
DATE RECEIVED:	

PLANNING AUTHORITY:
[insert]

In accordance with the requirements of paragraphs 7 / 8 of Schedule 17 to the High Speed Rail (West Midlands – Crewe) Act 2021, the nominated undertaker hereby requests approval of PLANS AND SPECIFICATIONS / SITE RESTORATION relating to the following development authorised by the Act.

1. Nominated undertaker’s submission reference number:

2. Description of the proposed development:

3. Location at which the development is to be undertaken:

4. Grid reference:

5. The development consists of the following operations or works for approval in accordance with Paragraphs 7 / 8 of Schedule 17:

Waste or spoil disposal	Yes / no	Excavation of bulk materials from a borrow pit	Yes / no
The erection, construction, alteration or extension of any building (including temporary buildings)	Yes / no	Handling of re-usable spoil and topsoil	Yes / no
A road vehicle park	Yes / no	Storage sites for construction materials, spoil or topsoil	Yes / no
Earthworks	Yes / no	Construction camps	Yes / no

Sight, noise or dust screens	Yes / no	Works Screening	Yes / no
Transformers, telecommunications masts or pedestrian accesses to railway lines	Yes / no	Artificial Lighting	Yes / no
Fences and walls (except for sight, noise and dust screens)	Yes / no	Dust Suppression	Yes / no
Road Mud Control Measures	Yes / no	Site Restoration	Yes / no

6. Documents submitted for approval:

Plans:

Other:

7. Documents submitted for information:

Plans:

Other

8. Other information relevant to the submission:

9. Signed on behalf of the nominated undertaker:

Name:

Position:

Address:

Please return all correspondence to the following address:

Appendix B: Submission Letter

[Insert Date]

Our Ref: **[Insert Document Reference]**

[Insert Address]

For the attention of: **[Insert Name]**

Dear **[Insert Name]**,

HIGH SPEED RAIL (WEST MIDLANDS – CREWE) ACT 2021
STAFFORDSHIRE COUNTY COUNCIL: KINGS BROMLEY NORTH BORROW PIT
SUBMISSION No. */***/PS – MAIN DESIGN SUBMISSION (PLANS & SPECIFICATIONS)**
SUBMISSION No. */***/SR – SITE RESTORATION**

Further to our discussions, we submit herewith a request for the approval of plans and specification and / or site restoration for the above work under Schedule 17 to the High Speed Rail (West Midlands - Crewe) Act 2021.

The submission for approval of plans and specifications comprises the following documents:

[to be added to/deleted as appropriate]:

1. Submission Pro forma
2. Plans and Specifications drawings (as listed on the proforma)
3. Construction Arrangements for approval
4. Written Statement (submitted for information)
5. Construction Sites Plan (submitted for information)

The submission for approval on site restoration comprises the following documents **[to be added to/deleted as appropriate]:**

1. Submission Pro forma
2. Site Restoration and Aftercare Plan for approval
3. Plans / drawings for approval
4. Written Statement (submitted for information)

[To be included if relevant] A cheque for **[insert]** is included to cover the planning fee in accordance with the HS2 Planning Fee Regulations 2021.

This application, submitted by **[Insert Name]** on behalf of the Nominated Undertaker, lies within the area designated for consultation under the High Speed Two Safeguarding Directions issued by the Secretary of State for Transport **[Insert Date]**. The application need not be referred to High Speed Two Ltd. for consultation for the purpose of the Directions. Should you have a query or require further guidance on safeguarding, please do not hesitate to contact the Safeguarding Manager at town.planning@hs2.org.uk.

We trust the above gives you sufficient information to determine the request for approval. Should you wish to discuss this matter further, please contact **[Insert Name and Contact Number]**.

Yours faithfully,

[Insert Name]
[Insert Job Title]

enc.

cc.