

2017 No. 223

TOWN AND COUNTRY PLANNING, ENGLAND

The High Speed Rail (London – West Midlands) (Fees for Requests for Planning Approval) Regulations 2017

<i>Made</i> - - - -	<i>27th February 2017</i>
<i>Laid before Parliament</i>	<i>2nd March 2017</i>
<i>Coming into force</i> - -	<i>27th March 2017</i>

The Secretary of State for Transport and the Secretary of State for Communities and Local Government, acting jointly in exercise of the powers conferred by section 20 of, and paragraphs 17(1) and 29(1) of Schedule 17 to, the High Speed Rail (London – West Midlands) Act 2017^(a), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the High Speed Rail (London – West Midlands) (Fees for Requests for Planning Approval) Regulations 2017, and come into force on 27th March 2017.

Interpretation and general provisions as to fee calculation

2.—(1) In these Regulations—

“the Act” means the High Speed Rail (London – West Midlands) Act 2017, and “the Schedule” means Schedule 17 to the Act;

“additional details request” means a request for approval of additional details where such approval is required pursuant to paragraph 2(3), 3(4) or 7(4) of the Schedule;

“appeal” means an appeal to the appropriate Ministers pursuant to paragraph 22 of the Schedule;

“approval” means approval under Part 1 of the Schedule, which includes an agreement for a site restoration scheme;

“authority” means a relevant planning authority for the purposes of the Schedule;

“request” means a request for approval under the planning permission deemed to be granted by section 20(1) of the Act;

“site restoration scheme” means a scheme referred to in paragraphs 8(1) and 12 of the Schedule;

“the undertaker” means the nominated undertaker^(b); and

(a) 2017 c. 7.

(b) See section 45 of the Act and the High Speed Rail (London – West Midlands) (Nomination) Order 2017 (S.I. 2017/184).

“working day” means a day which is not a Saturday, Sunday, bank holiday or other public holiday; and a “bank holiday” has the same meaning as in paragraph 1 of Schedule 1 to the Banking and Financial Dealings Act 1971(a).

(2) Where, pursuant to these Regulations, a prescribed fee is calculated by reference to the gross floor space to be created, the area of that space must be ascertained by external measurement of the floor space, whether or not it is to be bounded (wholly or in part) by external walls of a building.

(3) Where, pursuant to these Regulations, a prescribed fee is calculated by reference to a site area, that area must be taken to consist of the area of land to which the request relates.

(4) Where the gross floor space or the site area, as the case may be, is not an exact multiple of the unit of measurement specified, the fraction of unit remaining after division of the total area by the unit of measurement must be treated as a complete unit.

(5) Any notice or notification to be given pursuant to these Regulations must be in writing.

Fees for requests

3. Where the undertaker makes a request to an authority, it must, subject to the exceptions set out in Schedule 1, pay a fee to that authority in accordance with these Regulations.

Fees payable to an authority

4.—(1) The fee payable to an authority in respect of a request relating to a single matter falling within a category of development set out in column 1 of the Table in Schedule 2 is—

- (a) the fee set out in column 2, or
- (b) where relevant, to be calculated in accordance with the criteria set out in column 2,

in relation to that category.

(2) Subject to paragraphs (3) and (4), where a request seeks approval for more than one such matter, the total fee payable is to be calculated by adding together the fees that would be payable under paragraph (1), were each matter to have been the subject of a separate request.

(3) Where a request seeks approval only for—

- (a) more than one fence or wall, or
- (b) more than one sight, noise or dust screen,

the total fee payable under paragraph (2) is to be calculated as if the request was limited to seeking approval in respect of one fence or wall or one sight, noise or dust screen, as the case may be.

(4) Where a request includes a request for approval for—

- (a) more than one fence or wall, or
- (b) more than one sight, noise or dust screen,

that part of the total fee payable under paragraph (2) that relates to fences, walls or screens is to be calculated as if that part of the request relating to those matters was limited to seeking approval in respect of one fence or wall or one sight, noise or dust screen, as the case may be.

General provisions concerning fee payment

5.—(1) Any fee paid pursuant to these Regulations must be refunded if the request is rejected as invalidly made.

(2) Where a fee due in respect of a request has been paid by a cheque which is subsequently dishonoured, the appropriate period for the purposes of paragraph 22(3) of the Schedule will be calculated without regard to any time between the date when the authority dispatches to the

(a) 1971 c. 80.

undertaker notice of the dishonouring of the cheque and the date on which the authority is satisfied that it has received the full amount of the fee.

Termination of request on non-payment of fee

6.—(1) Where—

- (a) the prescribed fee is not paid to the authority within a period of 6 weeks beginning with the date of its receipt of the request; and
- (b) the undertaker has not, within that period, notified the authority that it disputes the amount of the fee payable pursuant to these Regulations or that it claims an exception set out in Schedule 1 is applicable,

the authority may treat the request as terminated.

(2) Where the authority decides to treat a request as terminated pursuant to paragraph (1), it must, before the expiry of the appropriate period for the purposes of paragraph 22(3) of the Schedule, give notice of its decision to the undertaker.

(3) For the purpose of this regulation and regulation 7—

- (a) a fee or the balance of a fee is paid when a cheque is tendered to the authority in payment of it, except where the cheque is dishonoured; and
- (b) where a cheque is dishonoured, the fee or balance of the fee is paid when the authority is satisfied that it has received the full amount of the fee or balance.

Resolution of disputes

7.—(1) Where paragraph 22(3) of the Schedule applies and, on making an appeal to the appropriate Ministers, the undertaker notifies them that there is a dispute with the authority as to—

- (a) the amount of the fee payable pursuant to these Regulations, or
- (b) whether any exception set out in Schedule 1 is applicable,

the appropriate Ministers may determine that issue prior to the consideration of the appeal.

(2) Where—

- (a) the appropriate Ministers have determined an issue falling under paragraph (1);
- (b) they have notified the undertaker and the authority of the prescribed fee; and
- (c) that fee is a sum larger than that already paid to the authority, or no fee has been paid to the authority,

the undertaker must, within a period of 3 working days beginning with the date of the undertaker's receipt of such notification, pay to the authority the prescribed fee, or the balance of that fee, as the case may be.

(3) Where the undertaker does not pay the prescribed fee or the balance of that fee, as the case may be, within the period mentioned in paragraph (2), the authority must, within a period of 10 working days beginning with the date of its receipt of the appropriate Ministers' notification under paragraph (2)(b), decide whether or not to treat the request as terminated.

(4) Where—

- (a) the authority, pursuant to paragraph (3), decides not to treat the request as terminated;
- (b) the cheque tendered in payment of the balance of fee is dishonoured; and
- (c) notice of the dishonour is not received by the authority prior to its decision,

the authority may, within a period of 7 working days beginning with the date of its receipt of the notice of dishonour, decide to treat the request as terminated.

(5) Where an authority makes a decision pursuant to paragraph (3) or (4), it must, within a period of 7 working days beginning with the date of the decision, give to the appropriate Ministers and to the undertaker notice of its decision.

(6) Where the authority has decided to treat a request as terminated pursuant to paragraph (3) or (4), the date of termination of the request will be the date of receipt by the appropriate Ministers of the notice mentioned in paragraph (5), and on and after that date, the appeal will be treated for all purposes as terminated.

Signed by authority of the Secretary of State for Transport

Andrew Jones
Parliamentary Under Secretary of State
Department for Transport

27th February 2017

Signed by authority of the Secretary of State for Communities and Local Government

Gavin Barwell
Minister of State
Department for Communities and Local Government

27th February 2017

SCHEDULE 1

Regulation 3

Cases in which no fee is payable

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 undertaker and the authority under which the undertaker agrees to make a financial contribution to the authority's costs incurred in handling requests.

2. In paragraphs 3, 4, 5 and 6—

“deemed refusal” means deemed refusal of a request pursuant to paragraph 22(3) of the Schedule, and “deemed to be refused” is to be construed accordingly;

“operation” means any operation, work, matter or scheme (including any arrangements with respect to a matter, any bringing into use of works or any additional details) for which approval is required; and

“similar request” means one further request which is made to the same authority and which relates solely to—

- (a) the whole or part of the same site as that to which an earlier request related (and to no other land); and
- (b) an operation which is, in the opinion of the authority, of the same character or description as that which was the subject of the earlier request.

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.

4. Where—

- (a) a request for which the prescribed fee has been paid is refused by the authority or is deemed to be so refused;
- (b) no appeal is made in respect of the refusal or deemed refusal; and
- (c) 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.

5. Where—

- (a) a request for which the prescribed fee has been paid is refused, and an appeal is made in respect of it;
- (b) the appeal is dismissed; and
- (c) 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.

6. Where—

- (a) a request for which the prescribed fee has been paid is deemed to be refused, and an appeal is made in respect of it;
- (b) within a period of 12 months beginning with the date of the expiry of the appropriate period mentioned in paragraph 22(4) of the Schedule, a similar request is made; and
- (c) the appeal has not, on or before the date of making of that similar request, been determined in favour of the appellant,

no fee will be payable in respect of that similar request.

SCHEDULE 2

Regulation 4

Table of fees payable

<i>Column 1</i>	<i>Column 2</i>
<i>Category of development for which approval is sought</i>	<i>Fee payable</i>
<i>1. Plans and specifications for the following works</i>	
A	
(i) Building works - the erection, construction, alteration or extension of a building, other than a temporary building and excluding anything in C below.	(a) where no gross floor space is to be created by the development, £195; (b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £195;
(ii) Fences and walls – the erection, alteration or extension of any fence or wall (other than sight, noise or dust screens).	(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;
(iii) Sight, noise or dust screens - the erection, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.	(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;
(iv) Artificial lighting equipment - the erection, alteration, extension or installation of lighting equipment.	(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.
B Road vehicle park – does not include anything that is a building.	£195.
C Earthworks – the erection, alteration or extension of any terracing, cuttings, embankments or other earth works.	£195 for each 0.1 hectares or part thereof of the site, subject to a maximum of £1,690.
D	
(i) Telecommunications masts or pedestrian access to the railway line.	£195.
(ii) Transformers.	The criteria in (a) to (e) in category 1A apply for the calculation of the fee.
<i>2. Matters ancillary to development</i>	
A. Handling of re-useable spoil or top soil – handling during removal, storage and re-use of any spoil or top soil removed during the course of carrying out the development.	£195.
B. Storage sites – sites on land within the Act limits at which materials are to be stored until used or re-used in carrying out the development or disposal as waste.	£195.
C. Construction camps – sites on land within the Act limits which are to be used for the residential accommodation of persons engaged in carrying out the development.	£195.

D. Works screening – the provision where necessary on land within the Act limits of any screening for working sites on such land required for the purpose of carrying out the development.	£195.
E. Artificial lighting – the use of artificial lighting on land within the Act limits for the purpose of carrying out the development.	£195.
F. Dust Suppression – the suppression of dust caused by construction operations carried out on land within the Act limits for the purpose of carrying out the development.	£195.
G. Road mud control measures – the measures to be taken on land within the Act limits to prevent or reduce the carrying of mud on to any public highway as a result of carrying out the development.	£195.
<i>3. Road transport</i>	
Arrangements concerning road transport – the arrangements regarding the routes by which anything is to be transported on a highway by a large goods vehicle(a) to a working or storage site; a site where it will be re-used; or a waste disposal site.	£195.
<i>4. Waste and spoil disposal and excavations</i>	
The development to the extent it consists of waste and spoil disposal or the excavation of bulk materials from borrow pits.	£195 for each 0.1 hectares or part thereof of the site area, subject to a maximum of £29,112.
<i>5. Bringing scheduled works or depots into use</i>	
Arrangements for bringing into use scheduled works and depots.	£195.
<i>6. Mitigation schemes</i>	
A mitigation scheme consists of reasonably practicably measures to mitigate the effect of the works or operation (paragraph 9(4)(b) of the Schedule).	£195.
<i>7. Site restoration schemes</i>	
A site restoration scheme.	£195.
<i>8. Additional details</i>	
Additional details request.	£97.
<i>9. Non-material changes</i>	
The request for a non-material change to any approval (paragraph 21 of the Schedule).	£195.

(a) See paragraph 6(7) of Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 where this term is defined.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about fees for requests for planning approval made by the nominated undertaker to relevant planning authorities pursuant to Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017.

Regulation 3 stipulates that a fee will be payable for such a request except in circumstances mentioned in Schedule 1. Regulation 4 and Schedule 2 set the fees payable in respect of the category of development work for which a request for approval is made. Regulations 5, 6 and 7 contain provisions concerning fee payment, possible termination of a request if the prescribed fee is not paid, and resolution of fee disputes.

An impact assessment of the affect that this instrument will have on the costs of business or charities or the voluntary sector is available from the High Speed Rail Directorate, Department for Transport, Zone 3/13 Great Minster House, 33 Horseferry Road, London SW1P 4DR. The impact assessment is also annexed to the Explanatory Memorandum which is available alongside these Regulations at www.legislation.gov.uk.

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