

2017 No. 227

TOWN AND COUNTRY PLANNING, ENGLAND

The High Speed Rail (London – West Midlands) (Planning Appeals) (Written Representations Procedure) (England) 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 paragraphs 22(1), 25 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) (Planning Appeals) (Written Representations Procedure) (England) Regulations 2017 and come into force on 27th March 2017.

Interpretation and notices, etc.

2.—(1) In these Regulations—

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

“the appellant” means the nominated undertaker(b);

“approval” means the approval or agreement under Part 1 of Schedule 17;

“authority” means the relevant planning authority for the purposes of Schedule 17;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means, but while in electronic form;

“in writing” includes electronic transmission in written form;

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

“starting date” means the date stated in the written notice under regulation 6(a); and

(a) 2017 c. 7. See paragraph 22(9) of Schedule 17 for the definition of “prescribed” and paragraph 30 of Schedule 17 for the definition of “appropriate Ministers”.

(b) See S.I. 2017/184 for the identity of the nominated undertaker.

“third party” means any person who has been notified or consulted in accordance with Schedule 17 about a request, or has submitted representations to the authority about that request.

(2) Any notice, questionnaire, statement or representation submitted pursuant to these Regulations must be in writing.

(3) Where—

- (a) any notice of appeal is given under paragraph 22 of Schedule 17,
- (b) any notice is served pursuant to regulation 7(1),
- (c) any questionnaire or statement is submitted or copied pursuant to regulation 8, or
- (d) any representations are submitted or copied pursuant to regulation 7, 9 or 10,

which makes reference to another document, a copy of that other document (or of the relevant part of it) must be submitted, served or copied (as the case may be) in a like manner and within the period specified for the submission, service or copying of the relevant document mentioned in subparagraph (a), (b), (c) or (d).

Application

3. These Regulations apply to any appeal which is made under paragraph 22 of Schedule 17, and which is not the subject of a direction made pursuant to paragraph 25(1) of that Schedule.

Services of Notices, etc.

4.—(1) Notices or representations required to be submitted or copied under any of the provisions of these Regulations may be sent—

- (a) by post; or
- (b) subject to paragraphs (2) to (5), by electronic transmission.

(2) Where a notice or representation required to be submitted or copied for the purposes of these Regulations is submitted or copied by electronic transmission, the requirement will be taken to be fulfilled where the recipient of the notice or representation to be transmitted has given his consent in writing to the use of electronic transmission.

(3) Where the recipient of a notice or representation submitted or copied by electronic transmission notifies the sender within 7 days of receipt that he requires a paper copy of all or any part of that notice or representation, the sender must provide such a copy as soon as is reasonably practicable.

(4) A person may revoke his consent to the use of electronic transmission in accordance with paragraph (5).

(5) Where a person is no longer willing to accept the use of electronic transmission for the purposes of these Regulations—

- (a) he must give notice in writing revoking any consent given by him for that purpose; and
- (b) such revocation will be final and will take effect on the date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

Notice of appeal

5. Notice of appeal under paragraph 22(1) of Schedule 17 must be given to the appropriate Ministers and the authority in the form prescribed in Schedule 1(a).

(a) See paragraph 22(1) of Schedule 17 for the period within which an appeal is to be made.

Notice of receipt of appeal

6. The appropriate Ministers must, as soon as reasonably practicable after receipt of the notice of appeal, notify the appellant and the authority in writing of—

- (a) the date from which the process for deciding the appeal is to be taken to start;
- (b) the reference number allocated to the appeal;
- (c) the address of the site to which the appeal relates; and
- (d) the address to which written communications to the appropriate Ministers about the appeal are to be sent.

Notice to, and representations by, third parties

7.—(1) The authority must, within a period of 7 days beginning with the starting date, serve notice on all third parties informing them of the appeal.

(2) A notice under paragraph (1) must—

- (a) summarise the request to which the appeal relates, and the grounds of the appeal;
- (b) contain the information specified in regulation 6;
- (c) inform third parties that they may, within a period of 21 days beginning with the starting date, submit representations to the appropriate Ministers in respect of the appeal;
- (d) state that the appropriate Ministers will copy those representations to the appellant and to the authority;
- (e) state that copies of any representations already submitted to the authority about the request (other than representations which were not taken into account because the maker requested they be treated as confidential) will be sent by the authority to the appropriate Ministers and the appellant.

(3) Any representations submitted pursuant to paragraph (2)(c) and any copies of representations mentioned in paragraph (2)(e) must be submitted to the appropriate Ministers within a period of 21 days beginning with the starting date.

(4) An authority submitting a copy of representations to the appropriate Ministers pursuant to paragraph (2)(e) must at the same time send a copy to the appellant.

(5) The appropriate Ministers must, on receipt of representations made pursuant to paragraph (2)(c), at the same time send a copy of them to the appellant and to the authority.

Submission of questionnaire and statement by the authority

8.—(1) The authority must, within a period of 14 days beginning with the starting date, submit to the appropriate Ministers a completed questionnaire in the form prescribed in Schedule 2.

(2) The authority must at the same time send a copy of that questionnaire to the appellant.

(3) If the authority wishes to submit a statement in addition to the questionnaire mentioned in paragraph (1), it must—

- (a) within a period of 14 days beginning with the starting date, serve notice on the appropriate Ministers and on the appellant of its intention to submit such a statement; and
- (b) within a period of 21 days beginning with the starting date, submit the statement to the appropriate Ministers, at the same time sending a copy of it to the appellant.

(4) The questionnaire referred to in paragraph (1) and the statement referred to in paragraph (3) must state the date on which it is submitted to the appropriate Ministers.

Representations by the appellant and by the authority

9.—(1) The appellant may submit to the appropriate Ministers representations in response to—

- (a) the authority's questionnaire copied to it pursuant to regulation 8(2); and

(b) the authority's statement (if any) copied to it pursuant to regulation 8(3)(b).

(2) Representations pursuant to paragraph (1)(a) must be sent within a period of 7 days beginning with the date of submission by the authority of the copy of the authority's questionnaire, and those pursuant to paragraph (1)(b) within a period of 7 days beginning with the date of submission by the authority of the copy of the authority's statement.

(3) Any representations submitted pursuant to paragraph (1) must be dated and submitted to the appropriate Ministers on the date they bear, and the appellant must at the same time send a copy of them to the authority.

(4) The appellant and the authority may submit to the appropriate Ministers representations in response to any third party representations submitted to those Ministers pursuant to regulation 7(2)(c).

(5) Representations pursuant to paragraph (4) must be submitted within 7 days of receipt of any third party representations.

Closing representations in respect of new matters

10. Where the appellant submits representations pursuant to regulation 9(1), and those representations raise a new matter, the authority may, within a period of 14 days beginning with the date of the appellant's submission of a copy of those representations pursuant to regulation 9(3), submit to the appropriate Ministers representations in respect of that new matter, copying them at the same time to the appellant.

Allowing further time

11. The appropriate Ministers may in a particular case give directions setting later time limits than those prescribed by these Regulations.

Power of determiner

12.—(1) In this regulation—

“representations” include any questionnaire or statement submitted or to be submitted by the appellant or authority pursuant to these Regulations; and

“the determiner” means the appropriate Ministers or the person appointed to determine the appeal pursuant to paragraph 23 of Schedule 17, as the case may be.

(2) The determiner may, at any time after the expiry of—

(a) a period of 7 days beginning either with the date the authority sent the appellant a copy of its questionnaire or, where the authority submits a statement pursuant to regulation 8(3), the date the authority sent the appellant a copy of that statement; or

(b) where applicable, the period of 14 days mentioned in regulation 10,

whichever is the later, proceed to a decision, taking into account only those representations and supporting documents as were submitted before the expiry of the relevant period.

(3) Where no representations are submitted within the period mentioned in regulation 7(2)(c), the determiner may proceed to a decision if—

(a) it appears to the determiner that sufficient material has been submitted to enable the determiner to reach a decision on the merits of the case; and

(b) notice has been given by the determiner to the appellant and to the authority of the determiner's intention to proceed to a decision notwithstanding that no representations have been submitted within that period.

Signed by authority of the Secretary of State for Transport

27th February 2017

Andrew Jones
Parliamentary Under Secretary of State
Department for Transport

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

27th February 2017

Gavin Barwell
Minister for State
Department for Communities and Local Government

SCHEDULE 1
Notice of Appeal

Regulation 5

<p>THE PLANNING INSPECTORATE</p>	<p>FOR THE PLANNING INSPECTORATE USE ONLY</p> <p>Date received:</p>
<p>THE HIGH SPEED RAIL (LONDON – WEST MIDLANDS) ACT 2017</p>	
<p>SCHEDULE 17 APPEAL TO THE APPROPRIATE MINISTERS</p>	
<p>Please complete this form clearly and send one copy to the Planning Inspectorate and one copy to the Planning Authority.</p>	
<p>A. APPELLANT DETAILS</p> <p>Full name(s)</p> <p>Address</p> <p style="text-align: right;">.....Postcode.....</p> <p>Daytime Telephone Number Your Reference</p> <p>Email address</p> <p>Fax Number</p> <p>Inclusion of an email address and/or a fax number will be taken as consent by the appellant to the receipt of electronic transmissions at the address or number.</p>	
<p>B. AGENT DETAILS (if any)</p> <p>Name</p> <p>Address</p> <p style="text-align: right;">.....Postcode.....</p> <p>Daytime Telephone Number Your Reference</p> <p>Email address</p> <p>Fax Number</p> <p>Inclusion of an email address and/or a fax number will be taken as consent by the agent to the receipt of electronic transmissions at the address or number.</p>	

C. PLANNING AUTHORITY DETAILS

Name of the Planning Authority

Planning Authority's application reference no.....

Date of Request for Approval

Date of Planning Authority's decision notice (if issued) or deemed decision

D. SITE ADDRESS

Site address

.....Postcode.....

E. DESCRIPTION OF DEVELOPMENT

Description of the work, for which approval is sought:

Relevant paragraph of Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 under which approval is sought:

F. OTHER INFORMATION	
<p>1. Are there any other requests for consent under Schedule 17 to the Act relating to the same sites either currently being considered by or about to be put to the planning authority?</p> <p>If YES, please describe briefly:</p>	YES/NO
<p>2. Are there any applications for planning permission under the Town and Country Planning Act 1990 relating to the same site either currently being considered by or about to be put before the planning authority?</p> <p>If YES, please describe briefly</p>	YES/NO
<p>3. Can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land?</p>	YES/NO
<p>4. Is it essential for the Inspector to enter the site to assess the impact of the proposal?</p> <p>If YES, please explain briefly:</p>	YES/NO
<p>5. Are there any known health and safety issues that would affect the conduct of the site inspection?</p> <p>If YES, please explain briefly:</p>	YES/NO

G. ESSENTIAL SUPPORTING DOCUMENTS	
<p>You must enclose a copy of each of the following documents with the appeal form. If documentation is missing your appeal may be seriously delayed.</p> <p><i>Please tick box to confirm documentation is included with the appeal form</i></p>	
<input type="checkbox"/>	The request for approval submitted to the planning authority;
<input type="checkbox"/>	A list and copies of all plans, sections, specifications, particulars, drawings and documents sent to the planning authority as part of the request for approval they considered;
<input type="checkbox"/>	The planning authority's decision (if any), including the planning officer's report to committee or delegated report on the application and any other relevant documents/minutes, and all representations held by the appellant and received from interested parties about the original application (if any);
<input type="checkbox"/>	A plan showing the site outlined in red, including two roads clearly named (preferably on a copy of a 1:10,000 Ordnance Survey map);
<input type="checkbox"/>	The matters which you want the Inspector to note at the site visit;
<input type="checkbox"/>	Any other plans, drawings and documents sent to the planning authority but which did not form part of the request for approval (e.g. drawings for illustrative purposes);
<input type="checkbox"/>	<p>Any additional plans or drawings relating to the request for approval but not previously seen by the planning authority.</p> <p>Number them clearly and note the numbers here:</p>

H. GROUNDS OF APPEAL

This must be a clear and concise statement of your full case. Please continue on a separate sheet if necessary and ensure it is clearly labelled.

I/We* confirm that I/we have enclosed a copy of each of the supporting documents indicated above and that I/we have clearly marked the relevant plans. I/We also certify that I/we have sent a copy of this appeal form and any supporting documents which were not seen as part of the request for approval to the planning authority.

Signed (on behalf of)

Name (in block letters)..... Date

*Please strike out the items that do not apply in your case.

The Planning Inspectorate is registered under the Data Protection Act 1998, so that we may hold information supplied by you on our computer system for the purpose of processing this appeal. The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration (Reg No: E311018) under the Data Protection Act. Further information about the Inspectorate’s Data Protection policy can be found on their website under “Privacy Statement”.

SCHEDULE 2
Appeal Questionnaire

Regulation 8

PLANNING AUTHORITY PLANNING QUESTIONNAIRE

THE HIGH SPEED RAIL (LONDON – WEST MIDLANDS) ACT 2017

APPEAL/CALL-IN OF REQUEST FOR APPROVAL UNDER SCHEDULE 17

BY

GRID REF

SITE

In the event of an appeal under paragraph 22 of Schedule 17, please complete this questionnaire and send copies together with any enclosure to the Planning Inspectorate and the nominated undertaker within a period of 14 days beginning with the date notified as the starting date of the appeal.

A. APPEAL QUESTIONS

1. Can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land?	YES/NO
2. Is it essential for the Inspector to enter the site to assess the impact of the proposal? If YES, please explain:	YES/NO
3. Are there any known health and safety issues that would affect the conduct of the site inspection?	YES/NO
4. Does the appeal/call-in relate to a request for approval under the provisions of Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017 pertaining to:	
(a) A qualifying authority?	YES/NO
(b) A non-qualifying authority?	YES/NO

5. Does the appeal/call-in relate to a request for approval of:	
(a) Detailed plans and specifications under paragraph 2 or 3 of Schedule 17?	YES/NO
(b) Matters ancillary to development under paragraph 4 of Schedule 17?	YES/NO
(c) Matters concerning the arrangements for road transport under paragraph 6 of Schedule 17/	YES/NO
(d) Development consisting of waste and spoil disposal and excavation under paragraph 7 of Schedule 17?	YES/NO
(e) Bringing scheduled works and depots into use under paragraph 9 of Schedule 17?	YES/NO
(f) A mitigation scheme under paragraph 9(4)(b) of Schedule 17?	YES/NO
(g) Site restoration scheme under paragraph 8(1) or 12 of Schedule 17?	YES/NO
(h) Additional details under paragraph 2(3), 3(4) or 7(4) of Schedule 17?	YES/NO
(i) Non-material changes to any approval (paragraph 21 of Schedule 17?	YES/NO
6. Is there a known surface or underground mineral interest at or near (within 400 metres of) the site which is likely to be a material consideration in determining the appeal/call in? If YES, clearly label and attach details to this form	YES/NO
7. Does the development directly affect the line of a footpath, bridleway or highway? If YES, please state the reference numbers here:	YES/NO
8. Are there any other High Speed Rail (London – West Midlands) appeals/requests for approval relating to the same site or neighbourhood which have still to be determined? If YES, please state the reference numbers here:	YES/NO

<p>9. Have there been any High Speed Rail (London – West Midlands) appeals determined or requests for approval refused but not appealed against relating to the same site?</p> <p>If YES, please state reference numbers here:</p>	YES/NO
10. Is the appeal site within:	
(a) A Green Belt?	YES/NO
(b) An Area of Outstanding Natural Beauty?	YES/NO
<p>11. Is the site in a Conservation Area?</p> <p>If YES, clearly label and attach a plan of the Conservation Area to this form.</p>	YES/NO
<p>12. (a) Does the proposed development involve the demolition, alteration or extension of a listed building?</p> <p>If YES, is it a:</p>	YES/NO
(i) Grade I	YES/NO
(ii) Grade II*	YES/NO
(iii) Grade II	YES/NO
Date of listing	
<p>Include here a description of the relation to the proposed development of the appropriate High Speed Rail (London – West Midlands) Act 2017 Heritage Deed (please note that, under the relevant heritage deeds entered into by the nominated undertaker, there is a separate procedure for handling heritage disputes).</p>	
<p>(b) Would the proposed development affect the setting of a listed building?</p> <p>If YES, clearly label and attach a copy of the relevant listing description to this form</p>	YES/NO

13. Would the proposed development affect an ancient monument (please note that, under the appropriate High Speed Rail (London - West Midlands) Act 2017 Scheduled Monument Agreement entered into by the nominated undertaker, there is a separate procedure for handling disputes)?	YES/NO
If YES, was Historic England consulted? If YES, clearly label and attach a copy of any comments from Historic England to this form.	YES/NO
14. Is any part of the site subject to a Tree Preservation Order? If YES, clearly label and attach a plan showing the extent of the Order and any relevant details to this form.	YES/NO
15. (a) Is the appeal site in or adjacent to or likely to affect an SSSI and/or an Internationally designated site (i.e. cSAC, SAC, pSPA, SPA, Ramsar)? If YES, clearly label and attach any comments from Natural England to this form.	YES/NO
(b) Are there any protected species likely to be affected by the proposals? If YES, clearly label and attach details to this form.	YES/NO
B. APPEAL DOCUMENTATION	
1. Copies of the following documents must, if appropriate, be enclosed with this questionnaire.	No. of documents or "N/A" if not applicable
(a) Any direction made by the appropriate Ministers, apart from those made under Schedule 17, relevant to the appeal/call-in;	
(b) Any comments from other Government Departments or statutory agencies/undertakers;	
(c) Any representations received as a result of notification of the request for approval under Schedule 17;	
(d) Details of any other requests/applications or matters currently before the Authority relating to the same site;	
(e) In the case of appeals against non-determination, details of considerations likely to have been relevant to the Authority's decision;	

<p>(f) Extracts from any relevant statutory development plan policies (even if you intend to rely more heavily on the emerging plan). You must include the front page, the title and date of approval/adoption, and give the status of the plan. Copies of the policies should include the relevant support text. You must provide this even if the appeal is against non-determination.</p> <p>Clearly label and list the policies below:</p>	
<p>(g) Extracts from any supplementary planning guidance that you consider necessary, together with its status, whether it was the subject of public consultation and consequent modification, whether it was formally adopted and if so, when;</p>	
<p>(h) Extracts from any supplementary planning document that you consider necessary, together with the date of its adoption. In the case of emerging documents please state what stage they have reached;</p>	
<p>(i) A list of conditions which are considered to be imposed if permission is granted or that are permitted to be imposed on approval with the agreement of the nominated undertaker under paragraphs 4(7) and 6(6) and (10) of Schedule 17 to the High Speed Rail (London – West Midlands) Act 2017;</p>	
<p>(j) Any other relevant information or correspondence the Authority consider the Inspectorate should be aware of;</p>	
<p>(k) A copy of the letter with which you notified people about the appeal (if any), together with a list of the people you notified;</p>	
<p>(l) Representation from interested parties about the request for approval;</p>	
<p>(m) The Planning Officer's report to committee (if any);</p>	

(n) Any relevant committee minute; and	
(o) Extracts from any relevant plans and policies and explanations for these. Each extract should include the front page, showing the title of the plan and date of approval or adoption. Where plans and policies have not been adopted, the stage and status of the plan should be given.	
<p>2. Do the documents listed above comprise the Authority's statement of case?</p> <p>If NOT, then the statement of case should be submitted within a period of 21 days beginning with the date notified as the starting date of the appeal.</p>	YES/NO
<p>C. AUTHORITY DETAILS</p> <p>Name of Planning Authority</p> <p>Address</p> <p>.....Postcode.....</p> <p>Daytime Telephone Number</p> <p>Email address</p> <p>Fax Number</p> <p>Inclusion of an email address and/or fax number will be taken as consent by the authority to the receipt of electronic transmissions at the address or number.</p>	
<p>Authority's reference</p>	
<p>I certify that a copy of this questionnaire and any enclosures have on this same day been sent to the nominated undertaker</p> <p>Signatureon behalf of Authority</p>	
<p>Date of despatch.....</p>	

EXPLANATORY NOTE

(This note is not part of the Regulations)

The High Speed Rail (London – West Midlands) Act 2017 makes provision for the nominated undertaker to make requests for planning approval to relevant planning authorities. Schedule 17 to the Act provides that the nominated undertaker may appeal to the Secretary of State for Transport and the Secretary of State for Communities and Local Government in certain circumstances against the decision of such an authority.

These Regulations prescribe the form of the notice of appeal (regulation 5) and a form of questionnaire to be completed by the authority (regulation 8).

The Regulations also provide for the notice of appeal to be served on the authority and on relevant third parties (regulations 6 and 7 respectively), and specify time limits for the submission of representations and any supporting documentation (regulations 7 to 10). Regulation 11 allows the Secretaries of State to grant additional time for the submission of representations. Regulation 12 provides for determination of the appeal to proceed taking account of only material submitted within the relevant time limit, and also enables determination to proceed in the absence of representations where that time limit has expired.

A full impact assessment has not been produced for this instrument as no impact on business, charities or the voluntary sector is foreseen.

The Explanatory Memorandum for this instrument is available alongside these Regulations at www.legislation.gov.uk.

© Crown copyright 2017

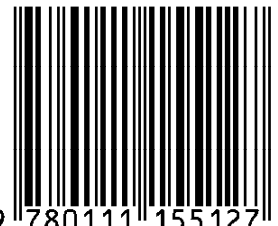
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.00

UK2017022820 03/2017 19585

<http://www.legislation.gov.uk/id/uksi/2017/227>

ISBN 978-0-11-115512-7



9 780111 155127