

2021 No. 183

TOWN AND COUNTRY PLANNING, ENGLAND

The High Speed Rail (West Midlands – Crewe) (Fees for Requests for Planning Approval) Regulations 2021

<i>Made</i>	- - - -	<i>22nd February 2021</i>
<i>Laid before Parliament</i>		<i>25th February 2021</i>
<i>Coming into force</i>	- -	<i>25th March 2021</i>

The Secretary of State for Transport and the Secretary of State for Housing, Communities and Local Government, acting jointly in exercise of the powers conferred by section 17 of, and paragraphs 17(1) and 28(1) of Schedule 17 to, the High Speed Rail (West Midlands – Crewe) Act 2021(a), make the following Regulations.

Citation and commencement

1. These Regulations may be cited as the High Speed Rail (West Midlands – Crewe) (Fees for Requests for Planning Approval) Regulations 2021, and come into force on 25th March 2021.

Interpretation and general provisions as to fee calculation

2.—(1) In these Regulations—

“the Act” means the High Speed Rail (West Midlands – Crewe) Act 2021, and “the Schedule” means Schedule 17 to the Act;

“appeal” means an appeal to the appropriate Ministers pursuant to paragraph 23 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 17(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

“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(c).

(a) 2021 c. 2. The Secretary of State for Transport and Secretary of State for Housing, Communities and Local Government are the appropriate Ministers as defined in paragraph 29 of Schedule 17.

(b) See section 41 of the Act and the High Speed Rail (West Midlands – Crewe) (Nomination) Order 2021 (S.I. 2021/148).

(c) 1971 c. 80.

(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 the 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 the column (1) of the Table in Schedule 2 is—

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

in relation to that category.

(2) Subject to paragraph (3), 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 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 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 23(3) of the Schedule will be calculated without regard to any time between the date when the authority dispatches to the 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.

(3) In this regulation and regulations 6 and 7, the payment of a fee may be made by bank transfer, cheque or by such other method of payment that may be agreed between the undertaker and the authority.

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 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 23(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 23(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 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

22nd February 2021

Andrew Stephenson
Minister of State
Department for Transport

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

22nd February 2021

Eddie Hughes
Minister for Rough Sleeping and Housing
Ministry of Housing, Communities and Local Government

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 23(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 is payable in respect of that similar request.

4. Where—

- (a) a request for which the prescribed fee has been paid is refused or deemed to be refused by the authority;
- (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 is 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 date of the dismissal of the appeal, a similar request is made,

no fee is 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 23(4) of the Schedule, a similar request is made; and
- (c) the appeal has not, on or before the date of making that similar request, been determined in favour of the appellant,

no fee is payable in respect of that similar request.

SCHEDULE 2

Regulation 4

Table of fees payable

(1)	(2)
<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;
(ii) Fences and walls – the erection, alteration or extension of any fence or wall (other than sight, noise or dust screens).	(b) where the area of the gross floor space to be created by the development does not exceed 40 square metres, £195;
(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 and dust suppression.	(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;
(iv) Artificial lighting equipment – the erection, alteration, extension or installation of lighting equipment.	(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;
	(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 not 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) Telecommunication 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	£195.

(1)	(2)
<i>Category of development for which approval is sought</i>	<i>Fee payable</i>
on land within the Act limits of any screening for working sites on such land required for the purpose of carrying out the development.	
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 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 deposits into use</i>	
Arrangements for bringing into use scheduled works and depots.	£195.
<i>6. Mitigation Schemes</i>	
Measures to mitigate the effect of the work or its operation on the local environment or local amenity (see paragraph 9(4)(b) of the Schedule).	£195.
<i>7. Site restoration schemes</i>	
A site restoration scheme.	£195.
<i>8. Additional details</i>	
A request for approval of additional details where that approval is required under paragraph 2(3), 3(4) or 7(4) of the Schedule.	£97.
<i>9. Non-material changes</i>	
The request for a non-material change of any approval (paragraph 21 of the Schedule).	£195.

(a) See paragraph 6(7) of Schedule 17 to the High Speed Rail (West Midlands – Crewe) Act 2021 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 (West Midlands – Crewe) Act 2021.

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.

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.

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£6.90

<http://www.legislation.gov.uk/id/uksi/2021/183>

ISBN 978-0-34-822044-5



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