

**EXPLANATORY MEMORANDUM TO**  
**THE HIGH SPEED RAIL (WEST MIDLANDS - CREWE) (FEES FOR REQUESTS**  
**FOR PLANNING APPROVAL) REGULATIONS 2021**

**2021 No 183**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The High Speed Rail (West Midlands - Crewe) (Fees For Requests For Planning Approval) Regulations 2021 (the “Regulations”) specify fees for requests for planning approval submitted by the nominated undertaker (HS2 Ltd) for the purposes of the High Speed Rail (West Midlands - Crewe) Act 2021 (the “Act”).

2.2 Paragraph 17(4) of Schedule 17 to the Act disapplies (for the purpose of the Act) the existing planning fees regime used by planning authorities for planning applications. In its place, paragraph 17(1) of Schedule 17 allows the Secretary of State for Transport and the Secretary of State for Housing, Communities and Local Government (the “appropriate Ministers”) to make alternative provisions. These Regulations make provision to introduce a fee regime for such requests.

2.3 The High Speed Rail (West Midlands - Crewe) Act 2021 is also known as “HS2 Phase 2a” or “Phase 2a”.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is England.

4.2 The territorial application of this instrument is England.

**5. European Convention on Human Rights**

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 These Regulations are based on the High Speed Rail (London - West Midlands) (Fees For Requests For Planning Approval) Regulations 2017 (2017 No. 223), the Crossrail (Fees for Requests for Planning Approval) Regulations 2008 (2008 No. 2175) and the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (2012 No. 2920) (as amended) (the “2012 Regulations”).
- 6.2 Schedule 17 to the Act disapplies the fees regime set out in the Town and Country Planning Act 1990. These Regulations are needed to make provision for an alternative fees regime.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Local authorities have the remit to charge fees for processing planning applications made by both individuals and organisations. These fees are set by the Ministry of Housing, Communities and Local Government.
- 7.2 Although the Act grants deemed planning permission for HS2 Phase 2a, the nominated undertaker (HS2 Ltd) will need to apply for approval of the detailed design of a range of elements for Phase 2a of the High Speed Rail scheme from planning authorities along the Phase 2a route. These Regulations will enable planning authorities to charge the prescribed charge in relation to processing the requests for planning approval that are submitted by the nominated undertaker.
- 7.3 The intended objective of these Regulations is to provide planning authorities with a fee regime that enables them to meet the costs of processing requests for planning approval that are made under Schedule 17 to the Act.
- 7.4 The fees prescribed in the Regulations are in line with the fees prescribed for planning applications. Therefore, the level of the prescribed fees in these Regulations are based on the level of fees set out in the Town and Country Planning 2012 Regulations (as amended) rather than introducing a new and different fee charging regime.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 None. These Regulations make provisions to prescribe fees to enable local planning authorities to cover the cost of processing requests for planning approval on matters set out in Part 1 of Schedule 17 to the Act.

## **10. Consultation outcome**

- 10.1 The HS2 Phase 2a Planning Forum (the “Planning Forum”) acts as the focus for liaison between HS2 Ltd and Phase 2a ‘line of route’ local planning authorities in relation to town planning, environment and related matters of cross boundary and route-wide generic interest.

- 10.2 These local planning authorities are Newcastle-under-Lyme Borough Council, East Staffordshire Borough Council, Stafford Borough Council, Staffordshire County Council, Shropshire Council, Lichfield District Council, and Cheshire East Council.
- 10.3 The provisions contained in these Regulations were the subject of consultation with senior planning officers at the HS2 Phase 2a Planning Forum meetings in July 2018 and July 2019 for comments on the approach, with the opportunity for further discussion in the July 2019 meeting.
- 10.4 At these meetings, presentations were provided to summarise the proposed approach, with time allowed for discussion and questions. The presentations included information on the relevant elements of the then Phase 2a Bill which disapply the fees regime set out in the Town and Country Planning Act 1990, to provide information on the approach that would be taken, and to provide links to relevant information, including the Phase One Fees Regulations. The presentations were circulated after each meeting.
- 10.5 After the July 2018 meeting, the Planning Forum members were given a four week period in which to consider the presentation material and send comments. No comments were received. There was then further discussion in the July 2019 meeting with no comments made.
- 10.6 The Planning Forum have and will continue to be kept up to date and given opportunities to raise comments and ask further questions on this matter.

## **11. Guidance**

- 11.1 The fee regime contained within these Regulations is self-explanatory and is based on the regime contained in the Town and Country Planning 2012 Regulations (as amended) with which planning authorities will be familiar. It is not therefore considered necessary for guidance to be provided.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no impact on the public sector. These Regulations negate a potential impact on planning authorities by providing them with a means to charge fees for processing requests for planning approval in relation to HS2 Phase 2a.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no impact on businesses, and no negative impact on local authorities. This approach has been agreed with the Department for Transport Better Regulation unit.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is to continue to engage with the relevant local authorities through the HS2 Phase 2a Planning Forum, which meets on a quarterly basis unless otherwise decided by its members.
- 14.2 The regulation does not include a statutory review clause.

**15. Contact**

- 15.1 Amanda John at the Department for Transport. Telephone: 07768 082786 or email: amanda.john@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Jon Griffiths, Deputy Director for HS2 Phase 2a, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Andrew Stephenson MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.