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**Changes to legislation:** There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, SCHEDULE 17. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 17

Section 17

#### CONDITIONS OF DEEMED PLANNING PERMISSION

##### PART 1

##### CONDITIONS

##### *Introductory*

- 1 The requirements in paragraphs 2 to 12 are conditions of deemed planning permission under section 17(1).

##### *Condition relating to building works*

- 2 (1) To the extent that development consists of building works, it must be carried out in accordance with plans and specifications for the time being approved by the relevant planning authority.
- (2) In this paragraph “relevant planning authority” means the unitary authority or, in a non-unitary area, the district council in whose area the development is carried out.
- (3) The relevant planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the building works to be submitted for approval.
- (4) Where the relevant planning authority exercises the power conferred under sub-paragraph (3), the plans and specifications referred to in sub-paragraph (1) must, as regards the specified respect, include a plan or specification showing the additional details.
- (5) If the relevant planning authority is a qualifying authority, it may only refuse to approve plans or specifications for the purposes of this paragraph on the ground that—
- (a) the design or external appearance of the building works ought to be modified—
    - (i) to preserve the local environment or local amenity,
    - (ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
    - (iii) to preserve a site of archaeological or historic interest or nature conservation value,and is reasonably capable of being so modified, or
  - (b) the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

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- (6) If the relevant planning authority is not a qualifying authority, it may only refuse to approve plans or specifications for the purposes of this paragraph on the ground that—
  - (a) the design or external appearance of the building works ought to be modified to preserve the local environment or local amenity and is reasonably capable of being so modified, or
  - (b) the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.
- (7) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph on a ground referred to in sub-paragraph (5) or (6) (as the case may be).
- (8) In this paragraph, “building works” means the erection, construction, alteration or extension of any building, other than a temporary building.
- (9) For these purposes, a building ancillary to a scheduled work is only a temporary building if it is intended to remain in place for no longer than two years after the date on which the scheduled work is brought into general use.
- (10) The requirements in this paragraph do not apply to building works to the extent that they are ancillary to development consisting of—
  - (a) the disposal of waste or spoil, or
  - (b) the excavation of bulk materials from borrow pits.

(See paragraph 7 as to such development.)

*Condition relating to other construction works*

- 3 (1) If the relevant planning authority is a qualifying authority, development to which this paragraph applies must be carried out in accordance with plans and specifications for the time being approved by that authority.
- (2) This paragraph applies to development to the extent that it consists of the construction of any of the following—
  - (a) a road vehicle park;
  - (b) earthworks;
  - (c) sight, noise or dust screens;
  - (d) transformers, telecommunications masts or pedestrian accesses to railway lines;
  - (e) fences or walls;
  - (f) lighting equipment.
- (3) In this paragraph “relevant planning authority” means the unitary authority or, in a non-unitary area, the district council in whose area the development is carried out.
- (4) The relevant planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (5) Where the relevant planning authority exercises the power conferred under sub-paragraph (4), the plans and specifications in accordance with which the development

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is required under sub-paragraph (1) to be carried out must, as regards the specified respect, include a plan or specification showing the additional details.

- (6) The relevant planning authority may only refuse to approve plans or specifications for the purposes of this paragraph on a ground specified in relation to the work in question in the following table.

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<b><i>Development</i></b>	<b><i>Possible grounds for refusal of approval</i></b>
1. A road vehicle park.	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <ul style="list-style-type: none"><li>(a) to preserve the local environment or local amenity,</li><li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</li><li>(c) to preserve a site of archaeological or historic interest or nature conservation value.</li></ul> <p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
2. Earthworks.	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <ul style="list-style-type: none"><li>(a) to preserve the local environment or local amenity,</li><li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</li><li>(c) to preserve a site of archaeological or historic interest or nature conservation value.</li></ul> <p>If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
3. Sight, noise or dust screens.	
4. Transformers, telecommunications masts or pedestrian accesses to railway lines.	<p>That the design or external appearance of the works ought to, and could reasonably, be modified to preserve the local environment or local amenity.</p> <p>That the development ought to, and could reasonably, be carried out on</p>

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| <p>land elsewhere within the development's permitted limits.</p> <p>5. Fences and walls (except for sight, noise and dust screens).</p> <p>6. Artificial lighting equipment.</p> | <p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p> <p>That the design of the equipment, with respect to the emission of light, ought to, and could reasonably, be modified to preserve the local environment or local amenity.</p> <p>If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p> |
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- (7) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph on a ground specified in the table in sub-paragraph (6) in relation to the work in question.
- (8) Any reference in sub-paragraph (2) or (6) to a description of works does not include works of that description of a temporary nature.
- (9) In this paragraph—
- “construction” includes erection, alteration, extension and (in the case of lighting equipment) installation;
- “earthworks” means terracing, cuttings, embankments or other earth works;
- “road vehicle park” does not include anything which is a building;
- “sight, noise or dust screens” means any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.
- (10) The requirements in this paragraph do not apply where development to which this paragraph applies is ancillary to development consisting of—
- (a) the disposal of waste or spoil, or
- (b) the excavation of bulk materials from borrow pits.
- (See paragraph 7 as to such development.)

*Condition relating to matters ancillary to development*

- 4 (1) If the relevant planning authority is a qualifying authority, development must be carried out in accordance with arrangements about ancillary matters which have been approved by that authority.
- (2) In this paragraph “ancillary matters” means—
- (a) handling of re-useable spoil or topsoil;
- (b) storage sites for construction materials, spoil or topsoil;
- (c) construction camps;

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- (d) works screening;
  - (e) artificial lighting;
  - (f) dust suppression;
  - (g) road mud control measures.
- (3) In this paragraph, “relevant planning authority” means, subject to sub-paragraph (4), the unitary authority or, in a non-unitary area, the district council in whose area the development is carried out.
- (4) Where the development is in a non-unitary area and consists of the disposal of waste or spoil or the excavation of bulk material from borrow pits, the relevant planning authority in respect of arrangements relating to ancillary matters is the county council.
- (5) The reference in sub-paragraph (1) to arrangements does not, in the case of artificial lighting, include detailed arrangements.
- (6) The relevant planning authority may only refuse to approve arrangements for the purposes of this paragraph—
- (a) on the ground that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other development which has deemed planning permission under section 17(1) and which is to be carried out in the authority's area, or
  - (b) on a ground specified in relation to the matter in the following table.

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<b>Matters</b>	<b>Grounds</b>
1. Handling of re-useable spoil and topsoil	That the arrangements ought to be modified to ensure that the spoil or topsoil remains in good condition, and are reasonably capable of being so modified.
2. Storage sites for construction materials, spoil or topsoil.	That the arrangements ought to be modified—
3. Construction camps.	(a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or
4. Works screening.	(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
5. Artificial lighting.	That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.
6 Dust suppression.	
7. Road mud control measures.	That the arrangements ought to be modified—

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- (a) to preserve the local environment or local amenity, or
  - (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,
- and are reasonably capable of being so modified.

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- (7) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph—
- (a) with the agreement of the nominated undertaker, and
  - (b) on a ground specified in the table in sub-paragraph (6)(b) in relation to the matter in question.
- (8) In this paragraph—
- “artificial lighting” means the use of artificial lighting on land within the Act limits for the purpose of carrying out the development;
  - “construction camps” means sites on land within the Act limits which are to be used for the residential accommodation of persons engaged in carrying out the development;
  - “construction materials” means minerals, aggregates or other construction materials required for the development;
  - “dust suppression” means the suppression of dust caused by construction operations carried out on land within the Act limits for the purpose of carrying out the development;
  - “handling of re-useable spoil and topsoil” means handling during removal, storage and re-use of any spoil or topsoil removed during the course of carrying out the development;
  - “road mud control measures” means 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;
  - “storage sites” means 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 disposed of as waste;
  - “works screening” means 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.
- 5 (1) The Secretary of State may for the purposes of paragraph 4 make a class approval of arrangements relating to the ancillary matters referred to in paragraph 4(2)(a), (b) and (d) to (g).
- (2) A class approval may be made—
- (a) generally or in relation to specific areas or specific descriptions of works, and
  - (b) subject to conditions.
- (3) A class approval may make different provision for different cases.
- (4) Before making a class approval the Secretary of State must consult the planning authorities who would be affected by it.

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- (5) Where arrangements made by the nominated undertaker are approved under a class approval, they do not require the approval of the relevant planning authority under paragraph 4.
- (6) But the nominated undertaker may in the case of any particular arrangements request approval under paragraph 4.
- (7) If the relevant planning authority to which such a request is made considers that the circumstances of the case justify it, the authority may grant approval under paragraph 4 (and, accordingly, the arrangements are subject to that approval instead of the class approval).
- (8) A class approval may be varied or revoked.

*Condition relating to road transport*

- 6 (1) Where—
- (a) the relevant planning authority is a qualifying authority, and
  - (b) development consists of the use of an authorised site,
- arrangements relating to the routes by which anything is to be transported to the site on a highway by a large goods vehicle must be approved by the relevant planning authority.
- (2) In this paragraph, “authorised site” means—
- (a) a working or storage site,
  - (b) a site where anything transported to the site will be re-used, or
  - (c) a waste disposal site.
- (3) Where a route to an authorised site includes a special road or trunk road, sub-paragraph (1) requires arrangements to be approved only in relation to transportation on so much of the route as lies between (but does not include) the site and—
- (a) the special road or trunk road, or
  - (b) where the route includes more than one special road or trunk road, the last such road before reaching the site.
- (4) In this paragraph “relevant planning authority” means the unitary authority or, in a non-unitary area, the county council in whose area the development is carried out.
- (5) The relevant planning authority may only refuse to approve arrangements for the purposes of this paragraph on the ground that—
- (a) the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with development which has deemed planning permission under section 17(1) and which is to be carried out in the authority's area, or
  - (b) the arrangements ought to be modified—
    - (i) to preserve the local environment or local amenity,
    - (ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
    - (iii) to preserve a site of archaeological or historic interest or nature conservation value,and are reasonably capable of being so modified.

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- (6) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph—
  - (a) with the agreement of the nominated undertaker, and
  - (b) on the ground referred to in sub-paragraph (5)(b).
- (7) Sub-paragraph (1) does not require arrangements to be approved in relation to transportation to an authorised site where the number of large goods vehicle movements (whether to or from the site) does not on any day exceed 24.
- (8) In this paragraph—
  - “large goods vehicle” has the same meaning as in Part 4 of the Road Traffic Act 1988;
  - “special road” and “trunk road” have the same meaning as in the Highways Act 1980.

*Conditions relating to waste and spoil disposal and excavation*

- 7 (1) If the relevant planning authority is a qualifying authority, development to which this paragraph applies must be carried out in accordance with plans and specifications for the time being approved by that authority.
- (2) This paragraph applies to development to the extent that it consists of—
  - (a) the disposal of waste or spoil, or
  - (b) the excavation of bulk materials from borrow pits.
- (3) In this paragraph “relevant planning authority” means the unitary authority or, in a non-unitary area, the county council in whose area the development is carried out.
- (4) The relevant planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (5) Where the relevant planning authority exercises the power conferred under sub-paragraph (4), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out must, as regards the specified respect, include a plan or specification showing the additional details.
- (6) The relevant planning authority may only refuse to approve plans or specifications for the purposes of this paragraph on a ground specified in sub-paragraph (7) or (8).
- (7) The grounds in this sub-paragraph are that—
  - (a) the design or external appearance of disposal sites (in the case of the disposal of waste or spoil) or borrow pits (in the case of excavation of bulk material from such pits) on land within the Act limits,
  - (b) the methods by which such sites or pits are worked, or
  - (c) the noise, dust, vibration or screening arrangements during the operation of such sites or pits,
 ought to, and could reasonably, be modified.
- (8) The grounds in this sub-paragraph are that in order to—
  - (a) preserve the local environment or local amenity,



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- (b) prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
- (c) preserve a site of archaeological or historic interest or nature conservation value,

the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

- (9) The grounds in sub-paragraph (8) do not apply where the development is—
    - (a) within the limits of deviation for the scheduled works, or
    - (b) consists of the use of land specified in columns (1) and (2) of the table in Schedule 6 for a purpose specified in relation to the land in column (3) of that table.
  - (10) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph—
    - (a) with the agreement of the nominated undertaker, and
    - (b) on a ground referred to in sub-paragraph (7) or (8) (taken with sub-paragraph (9)).
- 8
- (1) If the relevant planning authority is a qualifying authority, development to which paragraph 7 applies may not be begun unless the authority has approved a scheme for the restoration of the land on which the development is to be carried out.
  - (2) In this paragraph “relevant planning authority” has the same meaning as in paragraph 7.
  - (3) The relevant planning authority may only refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph on the ground that the scheme ought to be modified, and is reasonably capable of being modified.
  - (4) The nominated undertaker must carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out the development to which paragraph 7 applies.
  - (5) In sub-paragraph (1), the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.

*Conditions on bringing scheduled works and depots into use*

- 9
- (1) If the relevant planning authority is a qualifying authority, no work to which this paragraph applies may be brought into use without the approval of that authority.
  - (2) This paragraph applies to—
    - (a) any scheduled work, except to the extent that the work is underground, and
    - (b) any depot constructed, in exercise of the powers conferred under this Act, for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.
  - (3) In this paragraph “relevant planning authority” means the unitary authority or, in a non-unitary area, the district council in whose area the work is carried out.
  - (4) The relevant planning authority must grant approval for the purposes of this paragraph if—

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- (a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or
  - (b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.
- (5) The relevant planning authority may not refuse to approve, or impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (4)(b) unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—
- (a) to preserve the local environment or local amenity,
  - (b) to preserve a site of archaeological or historic interest, or
  - (c) in the interests of nature conservation,
- and that the scheme is reasonably capable of being so modified.
- (6) In this paragraph “railway vehicle” and “track” have the same meaning as in Part 1 of the Railways Act 1993.
- 10 Where the relevant planning authority approves a scheme for the purposes of paragraph 9(4)(b), the nominated undertaker must—
- (a) carry out the scheme, and
  - (b) comply with any condition subject to which the scheme is approved.

*Condition relating to discontinuation of ancillary operations*

- 11 Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, the operations must be discontinued as soon as reasonably practicable after the completion of the scheduled work or works.

*Condition relating to site restoration*

- 12 (1) The nominated undertaker must, after discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the relevant planning authority.
- (2) In this paragraph “relevant planning authority” means the unitary authority or, in a non-unitary area, the district council in whose area the work is carried out.
- (3) For the purposes of sub-paragraph (1) the nominated undertaker must, within four months of the discontinuation of the use, submit a proposed scheme to the relevant planning authority.
- (4) If—
- (a) the nominated undertaker fails to submit a proposed scheme in accordance with sub-paragraph (3), or
  - (b) the nominated undertaker submits a proposed scheme in accordance with sub-paragraph (3) but no scheme is agreed for the purposes of sub-paragraph (1) before the end of the relevant period,

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the scheme for the purposes of sub-paragraph (1) is to be such as the appropriate Ministers may determine after consulting the nominated undertaker and the relevant planning authority.

- (5) In sub-paragraph (4)(b) “the relevant period” means—
- (a) eight weeks beginning with the date on which the proposed scheme is submitted, or
  - (b) such longer period as the nominated undertaker and the relevant planning authority may agree.
- (6) A scheme agreed or determined for the purposes of sub-paragraph (1) may reserve particulars for subsequent agreement between the nominated undertaker and the relevant planning authority.
- (7) Where a particular reserved under sub-paragraph (6) is not agreed—
- (a) by the time specified by or determined in accordance with the scheme, or
  - (b) by such later time as the nominated undertaker and the relevant planning authority may agree,
- that particular is to be determined by the appropriate Ministers after consulting the nominated undertaker and the authority.
- (8) Where, independently of any consultation under sub-paragraph (4) or (7), the appropriate Ministers ask the relevant planning authority for assistance in connection with their function under the sub-paragraph in question, they may require the nominated undertaker to reimburse to the relevant planning authority any expenses which the authority reasonably incurs in meeting the request.
- (9) Sub-paragraph (1) does not apply to a site—
- (a) to the extent that the site consists of land to which a scheme under paragraph 8 (waste or spoil etc) applies, or
  - (b) in relation to which the nominated undertaker is subject to an obligation under paragraph 5(1) of Schedule 15 (obligation to put land into such condition as an agreed scheme provides, before giving up possession of the land).

## PART 2

### QUALIFYING AUTHORITIES

#### *Specification of qualifying authorities*

- 13 (1) As soon after the day on which this Act is passed as the Secretary of State considers reasonably practicable, the Secretary of State must by regulations specify every planning authority which—
- (a) had, on or before the day on which the Bill for this Act was reported from Select Committee in the House of Lords, given the Secretary of State undertakings with respect to the handling of planning matters arising under this Schedule which he or she considered satisfactory, and
  - (b) has not subsequently been released from its undertakings.
- (2) Subject to the following provisions of this paragraph, an authority which is specified under sub-paragraph (1) is a qualifying authority for the purposes of this Schedule.

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- (3) The Secretary of State may, if he or she considers it expedient to do so, by regulations provide that an authority is to cease to be a qualifying authority for the purposes of this Schedule.
- (4) If, in relation to a planning authority which is not a qualifying authority for the purposes of this Schedule, the Secretary of State considers that the way in which the authority carries out its functions has been significantly affected by a change of circumstances occurring since the relevant day, the Secretary of State may by regulations provide that the authority is to be a qualifying authority for the purposes of this Schedule.
- (5) In sub-paragraph (4), the reference to the relevant day is—
  - (a) in relation to an authority which has never been a qualifying authority for the purposes of this Schedule, to the day mentioned in sub-paragraph (1)(a), and
  - (b) in relation to an authority which has been a qualifying authority for the purposes of this Schedule, to the day on which it ceased, or last ceased, to be such an authority.
- (6) Before making regulations under sub-paragraph (3) or (4), the Secretary of State must consult—
  - (a) the nominated undertaker, and
  - (b) unless the authority concerned has requested the making of the regulations, that authority.

#### *Transition*

- 14 (1) Regulations under paragraph 13 may contain such transitional provision and savings as the Secretary of State thinks fit.
- (2) Without prejudice to the generality of sub-paragraph (1), provision under that sub-paragraph may include provision with respect to the effect of the authority becoming or ceasing to be a qualifying authority in relation to an approval which has already been requested or given.
- (3) The Secretary of State may by agreement fetter the exercise of his or her discretion under sub-paragraph (1).

### **PART 3**

#### APPROVALS: SUPPLEMENTARY

#### *Requests for planning approval*

- 15 A planning authority may only grant approval under Part 1 of this Schedule at the request of the nominated undertaker.
- 16 (1) A planning authority need not consider a request for approval under Part 1 of this Schedule unless—
  - (a) the nominated undertaker has deposited with the authority a document setting out its proposed programme with respect to the making of requests under that Part to the authority, and

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(b) the request is accompanied by a document explaining how the matters to which the request relates fit into the overall scheme of the works authorised by this Act.

(2) Sub-paragraph (1) does not apply to a request for approval of additional details.

*Fees for requests for approval*

17 (1) The appropriate Ministers may by regulations make provision about fees for requests to a planning authority for approval under Part 1 of this Schedule.

(2) Regulations under this paragraph may, in particular, make provision—

- (a) for the payment of a fee and for the amount of a fee;
- (b) about when a fee must be paid;
- (c) for circumstances in which a fee is to be treated as paid;
- (d) for the remission or refunding of a fee in whole or part;
- (e) about the consequences of non-payment of a fee, including provision for the termination of the application concerned or any appeal against its refusal;
- (f) for the resolution of disputes.

(3) Regulations under this paragraph may make such supplementary, incidental or consequential provision as the appropriate Ministers think fit.

(4) Nothing in regulations under section 303 of TCPA 1990 (fees for planning applications) applies to a request for approval under Part 1 of this Schedule.

*Consultation on requests for approval*

18 (1) This paragraph applies where a planning authority considers that a request for approval under Part 1 of this Schedule relates to matters which may affect any of the following—

- (a) nature conservation,
- (b) the conservation of the natural beauty or amenity of the countryside,
- (c) the conservation of the natural beauty or amenity of inland or coastal waters or land associated with them,
- (d) the conservation of flora or fauna which are dependent on an aquatic environment,
- (e) the use of inland or coastal waters, or land associated with them, for recreational purposes, or
- (f) a site of archaeological or historic interest.

(2) The planning authority must, within 5 days of receiving the request, invite the appropriate body or bodies to make representations.

(3) The appropriate body is—

- (a) for the matters in sub-paragraph (1)(a) and (b), Natural England,
- (b) for the matters in sub-paragraph (1)(c) and (e), Canal & River Trust so far as the matters relate to inland waters owned or managed by the Trust or land associated with such waters,
- (c) for the matters in sub-paragraph (1)(c) and (e) other than as mentioned in paragraph (b), the Environment Agency,
- (d) for the matter in sub-paragraph (1)(d), the Environment Agency, and

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- (e) for the matter in sub-paragraph (1)(f), the Historic Buildings and Monuments Commission for England.
- (4) Where under sub-paragraph (2) a planning authority has invited a body to make representations about a request for approval under Part 1 of this Schedule, it must not make any decision about the request until—
- (a) it has received representations from the body about the request,
  - (b) it has been informed by the body that it does not wish to make any representations, or
  - (c) 21 days have elapsed since the date of the invitation.
- (5) An invitation under sub-paragraph (2) must specify the time limit for making representations.

*Directions restricting powers of approval*

- 19 (1) The appropriate Ministers may by directions restrict a planning authority's powers in relation to the giving of approval under Part 1 of this Schedule.
- (2) Directions under this paragraph may—
- (a) be given in relation to a specified approval or approvals of a specified description,
  - (b) be expressed to have effect without a time-limit or during a specified period, and
  - (c) revoke or vary previous directions under this paragraph.

*Compulsory reference of requests for approval*

- 20 (1) The appropriate Ministers may by directions require a planning authority to refer any request for approval under Part 1 to them.
- (2) In determining a request referred to them under this paragraph, the appropriate Ministers have the same powers as the authority making the reference.
- (3) The determination by the appropriate Ministers of a request referred to them under this paragraph is final.
- (4) Directions under this paragraph may—
- (a) be given in relation to a specified request or requests of a specified description, and
  - (b) revoke or vary previous directions under this paragraph.

*Non-material changes to approvals*

- 21 (1) A planning authority may at the request of the nominated undertaker make a non-material change to any approval given under Part 1 of this Schedule.
- (2) In deciding whether a change is material, a planning authority must have regard to the effect of the change, together with any previous changes made under this paragraph, on the approval as originally given.
- (3) The power under sub-paragraph (1) includes power to impose new conditions or to alter or remove existing conditions.

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**Changes to legislation:** There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, SCHEDULE 17. (See end of Document for details)

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- (4) The approval as changed must represent an approval the authority could have given originally.
- (5) The consultation requirements in this Part of this Schedule do not apply to a change under this paragraph.

*Termination of approval relating to road transportation arrangements*

- 22 (1) An approval under paragraph 6 of arrangements relating to transportation ceases to have effect at the end of the relevant period if the nominated undertaker gives a termination notice to the planning authority which approved the arrangements.
- (2) In sub-paragraph (1)—
- (a) “termination notice” is a written notice that the arrangements in question are to cease to have effect;
  - (b) “the relevant period” means the period of 28 days beginning with the day on which the termination notice is given.

*Appeals*

- 23 (1) Where the nominated undertaker is aggrieved by a decision of a planning authority on a request for approval under Part 1 (including a decision to require additional details), it may appeal to the appropriate Ministers by giving notice of the appeal in the prescribed form to them and to the authority whose decision is appealed against within 42 days of notification of the decision.
- (2) On an appeal under this paragraph, the appropriate Ministers may allow or dismiss the appeal or vary the decision of the authority whose decision is appealed against, but may only make a determination involving—
- (a) the refusal of approval, or
  - (b) the imposition of conditions on approval,
- on a ground open to that authority.
- (3) Where, following receipt by a planning authority of a request by the nominated undertaker for approval under Part 1, the authority does not notify the undertaker within the appropriate period—
- (a) of its decision on the request, or
  - (b) that the request has been referred to the appropriate Ministers in accordance with directions under paragraph 20,
- this paragraph applies as if the authority had refused the request and notified the undertaker of its decision on the last day of the appropriate period.
- (4) For the purposes of sub-paragraph (3), the appropriate period is—
- (a) the period of 8 weeks beginning with the date on which the request was received by the planning authority, or
  - (b) such extended period as may be agreed upon in writing between the authority and the nominated undertaker.
- (5) The appropriate Ministers may by regulations make provision for the extension of the appropriate period for the purposes of sub-paragraph (3) in connection with the payment of fees by means of cheque.

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- (6) An agreement under sub-paragraph (4)(b) may be made after, as well as before, the end of the appropriate period.
  - (7) No agreement may be made under sub-paragraph (4)(b) to extend a period after it has ended if the nominated undertaker has given notice of appeal against the refusal which is deemed under sub-paragraph (3) to have occurred because of the ending of the period.
  - (8) Where an agreement under sub-paragraph (4)(b) to extend a period is made after the period has ended, sub-paragraph (3) is to be treated as not having applied when the period ended.
  - (9) In this paragraph, “prescribed” means prescribed by regulations made by the appropriate Ministers.
  - (10) No appeal under section 78 of TCPA 1990 (right to appeal against planning decisions and failure to take such decisions) may be made against a decision, or failure to notify a decision, in relation to which a right of appeal arises under this paragraph.
- 24
- (1) Unless the appropriate Ministers direct otherwise, their functions in relation to the determination of an appeal under paragraph 23 must, instead of being carried out by them, be carried out by a person appointed by them for the purpose.
  - (2) The appropriate Ministers may by a further direction revoke a direction under sub-paragraph (1) at any time before the determination of the appeal.
  - (3) A direction under sub-paragraph (1) or (2) must be served on the nominated undertaker and the planning authority whose decision is appealed against.
  - (4) At any time before the determination of an appeal by a person appointed for the purpose under this paragraph, the appropriate Ministers may revoke the appointment and appoint another person to determine the appeal instead.
  - (5) Where the function of determining an appeal under paragraph 23 is transferred from one person to another, the person to whom the function is transferred must consider the matter afresh, but the fact that the function is transferred does not entitle any person to make fresh representations or to modify or withdraw any representations already made.
  - (6) If the appropriate Ministers determine an appeal which another person was previously appointed to determine, they may, in determining it, take into account any report made to them by that person.
- 25
- The decision of the person appointed under paragraph 24 or, as the case may be, of the appropriate Ministers on an appeal under paragraph 23 is final.
- 26
- (1) An appeal under paragraph 23 is to be dealt with on the basis of written representations, unless the person deciding the appeal directs otherwise.
  - (2) Subject to that, the appropriate Ministers may by regulations make such provision as they think fit about procedure in relation to appeals under paragraph 23.
  - (3) Regulations under this paragraph may, in particular—
    - (a) make provision for a time limit within which any person entitled to make representations must submit them in writing and any supporting documents,



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- (b) empower the person deciding an appeal to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and
  - (c) empower the person deciding an appeal, after giving written notice of intention to do so to the nominated undertaker and the planning authority whose decision is appealed against, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to the person that there is sufficient material before the person to enable a decision on the merits of the case.
- (4) Regulations under this paragraph may, in relation to such a time limit as is mentioned in sub-paragraph (3)(a)—
- (a) prescribe the time limit in regulations, or
  - (b) enable the appropriate Ministers to give directions setting the time limit in a particular case or class of case.

*Guidance by Secretary of State*

- 27
- (1) The Secretary of State may give guidance to planning authorities in relation to the exercise of their functions under this Schedule.
  - (2) A planning authority must have regard to the guidance.
  - (3) The guidance may make different provision for different cases.
  - (4) The guidance may be varied or revoked.

**PART 4**

SUPPLEMENTARY AND GENERAL

*Regulations*

- 28
- (1) Regulations under this Schedule may make different provision for different cases.
  - (2) Regulations under this Schedule must be made by statutory instrument.
  - (3) A statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.

*Interpretation*

- 29
- In this Schedule—
- “appropriate Ministers” means the Secretary of State for [<sup>F1</sup>Levelling Up, Housing and Communities] and the Secretary of State for Transport and, in relation to the carrying out of any function, means those Ministers acting jointly;
- “building” includes any structure other than—
- (a) anything in the nature of plant or machinery,
  - (b) any gate, fence, wall or other means of enclosure,
  - (c) any tunnel, earthworks (within the meaning of paragraph 3) or railway track bed,

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- (d) any sight, noise or dust screens (within the meaning of paragraph 3),
- (e) transformers, telecommunication masts or pedestrian accesses to railway lines,
- (f) lighting equipment, and
- (g) anything underground, except where forming part of a station and intended for use by members of the public without a ticket or other permission to travel;

“permitted limits”, in relation to any development, means the limits of the land on which the works of which the development forms part may be carried out under this Act;

“planning authority” means a county council or a district council.

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#### **Textual Amendments**

- F1** Words in [Sch. 17 para. 29](#) substituted (8.12.2021) by [The Transfer of Functions \(Secretary of State for Levelling Up, Housing and Communities\) Order 2021 \(S.I. 2021/1265\)](#), art. 1(2), [Sch. 2 para. 27\(c\)](#) (with art. 12)

**Changes to legislation:**

There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, SCHEDULE 17.