STATUTORY INSTRUMENTS

2017 No. 227

TOWN AND COUNTRY PLANNING, ENGLAND

The High Speed Rail (London – West Midlands) (Planning Appeals) (Written Representations Procedure) (England) Regulations 2017

Made - - - -	*27th February 2017*
Laid before Parliament	*2nd March 2017*
Coming into force - -	*27th March 2017*

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(**1**), 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(**2**);

"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;

(**1**) 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".

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

"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

"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(**3**).

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

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

(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

Andrew Jones
Parliamentary Under Secretary of State
27th February 2017 Department for Transport

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

Gavin Barwell
Minster for State
Department for Communities and Local
27th February 2017 Government