

This application seeks approval of the plans and specifications under Schedule 17 of the High Speed Rail (West Midlands – Crewe) Act 2021 for the construction of permanent fencing, pedestrian and vehicular access gates and building and earthworks required for the creation of a permanent watercourse crossing.

The sites lie within the open countryside, which are designated as an Area of Landscape Restoration and a Landscape Maintenance Area, as well as within the Green Belt, as indicated on the Local Development Framework Proposals Map.

The 8 week determination period for this application ends on 28th July 2023.

RECOMMENDATIONS

That the Schedule 17 application be granted subject to conditions relating to the following:

- 1. Carried out in accordance with the approved plans.**

Reason for Recommendation

The proposed works preserve the local environment and local amenity, do not result in any prejudicial effect on road safety or on the free flow of traffic in the local area and would not adversely affect a site of archaeological or historic interest or nature conservation value. As such there are no design and appearance reasons to refuse to approve the application or grounds to argue that the development ought to, and could reasonably be, carried out on other land.

KEY ISSUES

Consideration of Schedule 17 Applications

Section 17 of the Act grants deemed planning permission under Part 3 of the Town and Country Planning Act 1990 for HS2 Phase 2a and associated works (“the Works”) between West Midlands and Crewe, but some of the detailed design and construction are subject to further approval. Schedule 17 to the Act puts in place a process for the approval of certain matters relating to the design and construction of the railway which requires that the nominated undertaker (the organisation on whom the powers to carry out the works are conferred) must seek approval of these matters from the relevant planning authority. As deemed planning permission has been granted by the Act, requests for approval under Schedule 17 are not planning applications.

In passing the Act, Parliament has judged such impacts to be acceptable when set against the benefits to be achieved by the Phase 2a scheme.

The purpose of Schedule 17 is not therefore to eliminate all prejudicial impacts on, or to secure the complete preservation of, any sites within the various categories identified in the schedule (set out below). On the contrary, the operation of Schedule 17 is such that there will be cases where a submission must be approved notwithstanding an identified negative impact, unless there are modifications that are reasonably capable of being made.

Accordingly, it is not open to the planning authorities under Schedule 17 to refuse in principle works or development which is covered by the Environmental Statement and approved by Parliament. The impacts have been assessed and planning permission has been granted on that basis. Instead, Schedule 17 offers planning authorities an opportunity to seek modifications to the details submitted that they consider reduce the impacts of a submission if such modifications can be justified.

The Schedule sets out that the Council can only refuse to approve the application, or impose conditions, in the following circumstances:

- (a) The design or external appearance of the 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) Where the Council consider that the development ought to, and could reasonably, be carried out elsewhere on land within the Act limits.
- (a) Consideration of the Design and External Appearance of the Proposal

The works proposed within the application are split across three sites, referred to within the supporting documents as sites 314, 315 and 53.

Site 315 is accessed from Manor Road, Madeley and the works to be undertaken within the confines of this area consist of the construction of new permanent fencing and access gates. One permanent pedestrian access gate would also be installed in the fencing at the southern corner of the site, and would be set back from Manor Road. There would be three runs of new fencing installed, one on either side of the cemetery that sits in the middle of the site and then one along the western boundary, directly adjacent to Manor Road.

The applicant has confirmed that the existing hedgerow in this location would be retained and the fencing will be placed alongside the existing hedgerow, which, given the limited height of the fencing, would have a minimal impact on the visual amenities of the area. Scattered broad leaved trees and woodland are proposed to be planted alongside the new fencing to either side of the cemetery which would assist in softening the appearance and visual impact of this expanse of fencing on the wider area.

Site 314 would be accessed from Netherset Hey Lane and sits approximately 670m south east of site 315. Beyond the eastern edge of the application site boundary sits Netherset Hey Farm, a Grade II listed building. The works proposed in this location consist of the installation of two new permanent access gates; one to be installed to the south west of an existing pond that sits in the far north eastern edge of the application boundary, and the second at the far end of the access track, to the east of the main railway line. These additions are considered to be minor and would have no implications on the character or appearance of the locality. The area immediately surrounding the existing water pond would also be enhanced by new neutral grassland landscaping, to enhance the ecological and landscape value of this area.

A new permanent watercourse crossing would also be constructed midway along the access route to the site. The crossing will be located across a tributary of the River Lea and is required to facilitate access from the south. The existing ditch slope would be re-profiled and a new precast concrete culvert opening added to facilitate the crossing. Following construction, the land would be backfilled with topsoil and topped with a grass paving system and new field grass planting to soften the appearance of the scheme. While the design is functional, its relatively minor scale would result in minimal impact on wider vantage points.

Finally, site 53 comprises two parcels of land that sit on opposite sides of Heath Lane and for context is positioned 2.2km south-east of Site 314. Within the land on the western side of Heath Lane there would be a two new vehicular access gates installed as well as a small length of new fencing. The land on the eastern side of Heath Lane would have two new lengths of fencing installed centrally to act as a corridor to traffic which would then lead to three new access gates. A further stretch of new fencing would also be installed along the entirety of the eastern edge of the application site. Extensive landscaping would also be carried out within the parcels of land subject to the application site, including neutral grasslands, broadleaved woodland planting and a mix woodland plantation.

Impact on the local environment and local amenity

All of the sites consist of agricultural land within the rural area of the Borough and are considered to be of good landscape quality.

While the introduction of fencing could harm the rural character of the area, the specifications for the fencing indicate that the fencing would have a maximum height of 1.2m and would feature timber posts with either horizontal or stock proof wire infills. Therefore despite there being a large amount of fencing introduced at each of the sites, most notably site 315 off Manor Road, the type of fencing would be characteristic of the sites' rural location and is not untypical of that used in agricultural environments.

The soft landscaping works proposed throughout the sites are extensive and when completed would enhance the quality of the landscape as well as the offering to biodiversity and ecology.

On that basis, it is considered that the proposed works would not harm the character and quality of the landscape or the local environment and local amenity.

Road safety and the free flow of traffic in the local area

The access points from Heath Lane to serve the development of site 53 comprise existing field access gates, and so there are no concerns in relation to highway safety.

Access to site 314 would be from Netherset Hey Lane, and then access would be across a series of fields which would not create any highway safety implications.

Measures to control road safety and traffic impacts arising from the construction of the works are separately covered and do not fall to be considered with this application. As such, the works would not have any detrimental impact on road safety or the free flow of traffic in the local area.

Impact on archaeological or historic interest or nature conservation value

There are no designated heritage assets located within the application site boundaries for any of the sites being discussed.

However, as identified previously, the Grade II listed building of Netherset Hey Farmhouse is positioned 230m from the edge of Site 315. The works here would only comprise landscaping surrounding the pond and the installation of new gates, both of which are considered to be appropriate in their appearance and design and so would not have any implications on the setting of this listed building.

The site is not within, or close to, a known site of archaeological or nature conservation value. Notwithstanding this, a Location Specific Written Scheme of Investigation has been drawn up in consultation with the County Archaeologist which details the methodology for archaeological surveys and investigations to be implemented prior to construction. Should any heritage assets of such significance be identified during construction that warrant preservation in situ there is a commitment to redesign the submission to avoid impacting the assets leading to a revised Schedule 17 approval request.

(b) Ought the development, and could it reasonably, be carried out elsewhere on land within the Act limits.

As there are no design and appearance reasons to refuse to approve the application, there are no grounds to argue that the development ought to, and could reasonably be carried out on, other land.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The public sector equality duty requires public authorities to consider or think about how their policies or decisions affect people who are protected under the

Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal and the matters that can be addressed, it is considered that it will not have a differential impact on those with protected characteristics.

APPENDIX

Policies and Proposals in the approved development plan relevant to this decision:-

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character – General Considerations
Policy N19: Landscape Maintenance Areas
Policy N21: Area of Landscape Restoration
Policy S3: Development in the Green Belt

[Madeley Neighbourhood Development Plan 2018 – 2037](#)

Policy DES1: Design
Policy NE1: Natural Environment

[Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan](#)

Policy NE1: Natural Environment
Policy DC1: Local Heritage
Policy DC2: Sustainable Design

Other Material Considerations include:

[National Planning Policy](#)

[National Planning Policy Framework](#) (2021)

[Planning Practice Guidance](#) (2014 as updated)

[High Speed Rail \(West Midlands – Crewe\) Act 2021](#)

[High Speed Rail \(West Midlands – Crewe\) Act 2021 Schedule 17 Statutory Guidance](#) (May 2021)

[Equality Act 2010](#)

[Supplementary Planning Guidance/Documents](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)

[Relevant Planning History](#)

None.

[Views of Consultees](#)

The **County Minerals Authority** has no comments to make regarding the application.

At the time of preparing this report, no representations have been received from **Whitmore Parish Council**, **Madeley Parish Council**, the **County Council Ecologist**, the **Environment Agency**, the **Landscape Development Section** or the **Environmental Health Division**. Should comments be

received prior to the application going before the planning committee, these will be reported in a supplementary report.

Representations

None received.

Applicant/agent's submission

The applicant has submitted, in addition to plans, the following:

- Submission Letter
- Written Statement

All of the application documents can be viewed on the Council's website using the following link:

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/23/00474/SCH17>

Background Papers

Planning File referred to
Planning Documents referred to

Date report prepared

4th July 2023