

LAND NORTH WEST OF BOWER END FARM, MADELEY
HIGH SPEED TWO (HS2) LIMITED

23/00518/SCH17

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 landscape improvements.

The sites lie within the open countryside and an Area of Landscape Enhancement, as indicated on the Local Development Framework Proposals Map.

The 8 week determination period for this application ends on 16th August 2023.

RECOMMENDATIONS

Subject to the receipt of no objections from consultees that cannot be suitably addressed through conditions, the Head of Planning be given the delegated authority to grant the Schedule 17 application 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 proposed works are split across two sites which are referred to within the supporting information as Site 328 and Site 340. Both sites are located within the vicinity of Bower End Farm; Site 328 sits directly north west of Bower End Farm and Site 340 is positioned approximately 550m north-west of site 328 adjacent to an area of Ancient Woodland known as Wrinehill Wood.

There are also two Public Rights of Way (PROW) that cross through both of the development sites, Madeley 5 and Madeley 28. The application documents however stipulate that the development would be carried out to ensure that the access to the relevant PROW would be maintained.

Throughout both of the sites the works would comprise the installation of new permanent fencing, four pedestrian gates and four permanent access gates. The development is required to provide security and access for maintenance purposes to sites that will provide early environmental works.

Details of the fencing to be installed show that it would have a maximum height of 1.2m and would comprise timber posts with either horizontal wire or mesh inserts. The gates to be installed would also be constructed from a combination of wire and timber and would have a height of 2.1m.

Extensive landscaping would also be carried out within both of the parcels of land which would include neutral grasslands, broadleaved woodland semi-natural planting and scattered scrubland.

Impact on the local environment and local amenity

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 specification for the fencing shows that it would only be 1.2m in height, and its appearance would be typical of that in and around rural agricultural land. While it would be readily visible from the adjacent public footpaths, the development is not considered to result in harm to the character or appearance of the wider area.

The soft landscaping works proposed throughout the sites are extensive and when completed would enhance the quality of the landscape, soften the appearance of the development and also enhance 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

Access to Site 328 would be via Bower Hill Lane, whilst access for Site 340 would be through private land. Given that the proposed development would use an existing access road and vehicle access across private land, there would be no concerns in relation to highway safety.

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. Site 340 is positioned adjacent to an area of ancient woodland referred to as Whitmore Wood which is also flagged on Staffordshire County Councils Historic Environment record, and so could be of archaeological or nature conservation value. As part of the development 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 N20: Areas of Landscape Enhancement

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

Policy DES1: Design
Policy NE1: Natural Environment

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 Mineral Authority** have no comments to make on the application.

At the time of preparing this report, no comments have been received from **Madeley Parish Council**, the **Landscape Development Section**, the **Public Rights of Way Officer** or the **County Ecologist**. Any comments received prior to the meeting of the Planning Committee will be reported through 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/23/00518/SCH17>

Background Papers

Planning File referred to
Planning Documents referred to

Date report prepared

4th July 2023