

Qualifying Authority

A Qualifying Authority, under Part 2 of Schedule 17, will be required to approve plans and specifications for matters such as buildings and road vehicles parks, terracing, cuttings, embankments and other earthworks, fences, walls or other barriers, transformers, telecommunication masts, pedestrian access to the railway line, artificial lighting, waste and spoil disposal and borrow pits. These provisions do not apply to works of a temporary nature, to anything underground except any part of a station available for use without a ticket, nor to any tunnel or railway track bed.

A Qualifying Authority can only refuse to approve plans or specification or impose conditions on the grounds set out in Schedule 17 which are broadly:-

- 1) The design or external appearance of the works ought to be modified:
 - a. To preserve the local environment or local amenity
 - b. To prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area or
 - c. To preserve a site of archaeological or historic interest or nature conservation value

And is reasonably capable of being so modified or

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

In determining whether or not to grant approval to a request or to impose conditions upon an approval, a Qualifying Authority should consider, amongst other things whether the proposals are consistent with the Environment Minimum Requirements, including the draft Environmental Memorandum. These documents set out the principles that the nominated undertaker should follow in developing the detailed design and that may be taken into account by planning authorities when considering requests for approvals of the plans and specifications. They will also need to consider the statutory guidance produced by Secretary of State for Transport under paragraph 26 of Schedule 17.

A Non Qualifying Authority will be required to approve plans and specifications for buildings. They will only be able to refuse approval if the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, and it is reasonably capable of being so modified, or the development ought to, and could reasonably, be carried out elsewhere on land within the Act limits.

A Non Qualifying Authority which decides not to sign the Planning Memorandum will be able to approve the detailed design of permanent structures, and have a more restricted role in the approval of construction matters and they will be governed by the Fees Regulations which were made available in March 2016.

- If the LPA does not determine applications within the prescribed period (currently 8 weeks but many authorities are seeking 13 weeks) then they forfeit being a QA and consent is given;
- If an LPA is looking to refuse an application they need to fully justify and provide a designed and costed alternative within the prescribed period (most LPAs including the Council do not have resources or skills to do this particularly for bridges/viaducts/vent shafts);
- HS2 have indicated during the petitioning period that they favour the use of a flat fee for all applications regardless of size and complexity. Alternatively they may consider a salary applying this on a route wide basis but this approach fails to account for the number, size and complexity of applications along the route. They are not at the moment willing to consider a scale of fees but the position is uncertain.
- It is possible for a local authority to lose the opportunity to become a QA before it becomes one, even if it sign up to the Planning Memorandum on time, as paragraph 13(1) of Schedule 17 allows for a Council to be “released from its undertakings” in the interim period between signing up to the Planning Memorandum and the QA order being made, the decision to release the Council rests with the Secretary of State.

Further information about the HS2 Phase One Planning Forum, the Planning Memorandum and qualifying status can be found at this link: <https://www.gov.uk/government/collections/hs2-phase-one-planning-forum>.

The Council’s Parliamentary Agent has stated that “most if not all (local authorities) were keen to become QA because of the benefits it endows and they all signed up on time.”

It is important that the Council retains what powers it can over detailed matters relating to the HS2 proposals and to do this it needs to become a QA.