EXPLANATORY MEMORANDUM TO

THE HIGH SPEED RAIL (WEST MIDLANDS – CREWE) (QUALIFYING AUTHORITIES) REGULATIONS 2021

2021 No. 151

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 Schedule 17 to the High Speed Rail (West Midlands - Crewe) Act 2021 (the "Act") establishes a planning regime that seeks to give planning authorities an appropriate degree of local control over the detailed planning aspects of Phase 2a of the HS2 programme ("Phase 2a"). This instrument specifies the 'qualifying authorities' for the purposes of Schedule 17 to the Act.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument was made on 11 February 2021 and came into force on 12 February 2021 without being laid before Parliament, despite being subject to the negative resolution procedure.

3.2 This occurred mistakenly and the instrument is now laid in accordance with section 5(1) of the Statutory Instruments Act 1946. The Department has also written to the Speakers of both Houses in accordance with the proviso to section 4(1) of the 1946 Act. The Department regrets the error and the length of time that has elapsed between making and laying, which it recognises as having been unacceptably long.

3.3 Phase 2a remains at an early stage and since this instrument came into force the powers of qualifying authorities have been exercised on few occasions.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Section 17(1) of the Act grants deemed planning permission under Part 3 of the Town and Country Planning Act 1990 for Phase 2a of HS2 and associated works between the West Midlands and Crewe. Schedule 17 to the Act imposes conditions on this

deemed planning permission. Specifically, it requires the nominated undertaker (HS2 Ltd) to submit various matters relating to the design and construction of the railway to local planning authorities for approval. Paragraph 13(1) of Schedule 17 requires the Secretary of State by regulations to specify every planning authority which is a 'qualifying authority'. This instrument specifies those qualifying authorities.

7. Policy background

What is being done and why?

7.1 Schedule 17 to the Act gives local planning authorities various controls over the detailed planning aspects of Phase 2a of HS2. Planning authorities that have signed the Phase 2a Planning Memorandum, the 'qualifying authorities', have a greater range of controls than those planning authorities that have not signed it, the non-qualifying authorities. The Planning Memorandum sets out the responsibilities and obligations of qualifying authorities with respect to the handling of planning matters under Schedule 17. The Secretary of State is under a duty to name the qualifying authorities in regulations, which this instrument does.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Consolidation is not a relevant issue for this instrument which specifies the qualifying authorities for the purpose of Schedule 17 to the Act.

10. Consultation outcome

10.1 The Phase 2a Planning Forum (the "Planning Forum") acts as the focus for liaison between HS2 Ltd (as nominated undertaker) and the Phase 2a 'line of route' local planning authorities on matters concerning town planning, environment and related matters of cross boundary and route-wide generic interest.

10.2 These local planning authorities are Newcastle-under-Lyme Borough Council, East Staffordshire Borough Council, Stafford Borough Council, Staffordshire County Council, Shropshire Council, Lichfield District Council, and Cheshire East Council.

10.3 There was extensive engagement with these local planning authorities on the drafting of Schedule 17 to the Act and the Phase 2a Planning Memorandum. The local planning authorities have confirmed they have understood and are content with the roles they took on by becoming qualifying authorities.

11. Guidance

11.1 A draft of the guidance on the process for removal of qualifying authority status has been shared with the relevant local planning authorities through the Planning Forum and the guidance will be published on the gov.uk website. Statutory guidance on Schedule 17 to the Act was published in May 2021 and can be found at the following link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/979806/high-speed-rail-west-midlands-crewe-act-2021-schedule-17-statutory-guidance.pdf.

12. Impact

12.1 There is no impact on business, charities or voluntary bodies.

12.2 There is no significant impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because no or very little impact on business by the qualifying authorities is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this instrument is to continue engagement with the affected local authorities through the Planning Forum, which meets on a quarterly basis unless otherwise decided by its members.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Lee Bowerman at the Department for Transport Telephone: 07771 673 830 or email: Lee.Bowerman@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Jon Griffiths, Deputy Director for HS2 Phase 2a Sponsor, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Andrew Stephenson MP, Minister of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.