

2008 No. 2175

TOWN AND COUNTRY PLANNING, ENGLAND

**The Crossrail (Fees for Requests for Planning Approval)
Regulations 2008**

<i>Made</i>	- - - -	<i>14th August 2008</i>
<i>Laid before Parliament</i>		<i>18th August 2008</i>
<i>Coming into force</i>	- -	<i>10th September 2008</i>

The Secretary of State for Communities and Local Government and the Secretary of State for Transport, acting jointly in exercise of the powers conferred on them by section 12 of, and paragraph 30 (5) of Schedule 7 to, the Crossrail Act 2008(a), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Crossrail (Fees for Requests for Planning Approval) Regulations 2008, and shall come into force on 10th September 2008.

Interpretation and general provisions as to fee calculation

2. (1) In these Regulations:

- “the Act” means the Crossrail Act 2008, and “the Schedule” means Schedule 7 to the Act;
- “additional details request” means a request for approval of additional details where such approval is required pursuant to paragraph 5(2), 6(2), 14(2), 15(2) or 21(2) of the Schedule;
- “appeal” means an appeal to the appropriate Ministers pursuant to paragraph 30 of the Schedule;
- “approval” means approval under Part 2 or Part 3 of the Schedule;
- “authority” means a qualifying authority for the purposes of Schedule 7(b);
- “mitigation scheme” means a scheme referred to in paragraph 9(3)(b) or 17(3)(b) of the Schedule;
- “request” means a request for approval under the planning permission deemed to be granted by section 10(1) of the Act;
- “site restoration scheme” means a scheme referred to in paragraph 8(1) or 23(1) of the Schedule;
- “the undertaker” means the nominated undertaker(c); and

(a) 2008 c. 18
(b) See paragraph 1(2)
(c) See section 39 of the Act and the Crossrail (Nomination) Order (S.I. 2008/2036)

“working day” means any day which is not a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971^(a) in any part of the United Kingdom.

(2) Where, pursuant to these Regulations, a prescribed fee is calculated by reference to the gross floor space to be created, the area of that space shall be ascertained by external measurement of the floor space, whether or not it is to be bounded (wholly or in part) by external walls of a building.

(3) Where, pursuant to these Regulations, a prescribed fee is calculated by reference to a site area, that area shall be taken to consist of the area of land to which the request relates.

(4) Where the gross floor space or the site area (as the case may be) is not an exact multiple of the unit of measurement specified, the fraction of unit remaining after division of the total area by the unit of measurement shall be treated as a complete unit.

(5) Where approval is sought in a single document for:

- (a) the plans and specifications of more than one operation or work;
- (b) arrangements for more than one matter;
- (c) more than one mitigation scheme or site restoration scheme;
- (d) the bringing into use of more than one work referred to in paragraph 9(2) or 17(2) of the Schedule; or
- (e) additional details in more than one respect -

the total of the fees payable shall be calculated by adding together the fees payable in respect of each item, whether or not the document treats each item as a separate request.

(6) Any notice or notification to be given pursuant to these Regulations shall be in writing.

Fees for requests

3. Where the undertaker makes a request to an authority, it shall, subject to the exceptions set out in Schedule 1, pay a fee to that authority in accordance with these Regulations.

Fees payable to an authority

4. The fee payable to an authority in respect of a request shall be the amount specified in the appropriate category in the table set out in Schedule 2.

General provisions concerning fee payment

5.—(1) Any fee paid pursuant to these Regulations shall be refunded if the request is rejected as invalidly made.

(2) Where a fee due in respect of a request has been paid by a cheque which is subsequently dishonoured, the appropriate period for the purposes of paragraph 30(3) of the Schedule shall be calculated without regard to any time between the date when the authority dispatches to the undertaker notice of the dishonouring of the cheque and the date on which the authority is satisfied that it has received the full amount of the fee.

Termination of request on non-payment of fee

6.—(1) Where-

- (a) the prescribed fee is not paid to the authority within a period of 6 weeks beginning with the date of its receipt of the request; and

(a) 1971 c. 80

- (b) the undertaker has not, within that period, notified the authority that it disputes the amount of the fee payable pursuant to these Regulations or that it claims an exception set out in Schedule 1 is applicable-

the authority may treat the request as terminated.

(2) Where the authority decides to treat an application as terminated pursuant to paragraph (1), it shall, before the expiry of the appropriate period for the purposes of paragraph 30(3) of the Schedule, give notice of its decision to the undertaker.

(3) For the purposes of this regulation and of regulation 7:

- (a) a fee or the balance of a fee is paid when a cheque is tendered to the authority in payment of it, except where the cheque is dishonoured; and
- (b) where a cheque is dishonoured, the fee or balance of the fee is paid when the authority is satisfied that it has received the full amount of the fee or balance.

Resolution of Disputes

7.—(1) Where paragraph 30(3) of the Schedule applies and, on making an appeal to the appropriate Ministers, the undertaker notifies them that there is a dispute with the authority as to:

- (a) the amount of the fee payable pursuant to these Regulations; or
- (b) whether any exception set out in Schedule 1 is applicable the appropriate Minister may determine that issue prior to their consideration of the appeal.

(2) Where:

- (a) the appropriate Ministers have determined that issue;
- (b) they have notified the undertaker and the authority of the prescribed fee; and
- (c) that fee is a sum larger than that already paid to the authority, or no fee has been paid to the authority –

the undertaker shall, within a period of 3 working days beginning with the date of the undertaker's receipt of such notification, pay to the authority the prescribed fee, or the balance of that fee, as the case may be.

(3) Where the undertaker does not pay the prescribed fee or the balance of that fee, as the case may be, within the period mentioned in paragraph (2), the authority shall, within a period of 10 working days beginning with the date of its receipt of the appropriate Ministers' notification under paragraph (2)(b), decide whether or not to treat the request as terminated.

(4) Where:

- (a) the authority, pursuant to paragraph (3), decides not to treat the request as terminated;
- (b) the cheque tendered in payment of the balance of the fee is dishonoured; and
- (c) notice of the dishonour had not been received by the authority prior to its decision –

the authority may, within a period of 7 working days beginning with the date of its receipt of the notice of dishonour, decide to treat the request as terminated.

(5) Where an authority makes a decision pursuant to paragraph (3) or (4), it shall, within a period of 7 working days beginning with the date of the decision, give to the appropriate Ministers and to the undertaker notice of its decision.

(6) Where the authority has decided to treat a request as terminated pursuant to paragraph (3) or (4), the date of termination of the request shall be the date of receipt by the appropriate Ministers of the notice mentioned in paragraph (5), and on and after that date, the appeal shall be treated for all purposes as terminated.

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

Caroline Flint
Minister of State

11th August 2008

Department for Communities and Local Government

Signed by authority of the Secretary of State for Transport

14th August 2008

Jim Fitzpatrick
Parliamentary Undersecretary of State
Department for Transport

CASES IN WHICH NO FEE IS PAYABLE

1. No fee shall be payable in respect of a request where, on the date of such request, there is in effect a written agreement between the undertaker and the authority under which the undertaker agrees to make a financial contribution to the authority's costs incurred in handling requests.

2. In paragraphs 3, 4, 5 and 6 below:

“deemed refusal” means deemed refusal of a request pursuant to paragraph 30(3) of the Schedule, and “deemed to be refused” shall be construed accordingly;

“operation” means any operation, work, matter or scheme (including any arrangements with respect to a matter, any bringing into use of works or any additional details) for which approval is required; and

“similar request” means one further request which is made to the same authority and which relates solely to:

- (a) the whole or part of the same site as that to which an earlier request related (and to no other land); and
- (b) an operation which is, in the opinion of the authority, of the same character or description as that which was the subject of the earlier request.

3. Where a request for which the prescribed fee has been paid is withdrawn, and within a period of 12 months beginning with the date of the receipt by the authority of the request, a similar request is made, no fee shall be payable in respect of that similar request.

4. Where:

- (a) a request for which the prescribed fee has been paid is refused by the authority or is deemed to be so refused;
- (b) no appeal is made in respect of the refusal or deemed refusal; and
- (c) within a period of 12 months beginning with the date of such refusal or deemed refusal, a similar request is made –

no fee shall be payable in respect of that similar request.

5. Where:

- (a) a request for which the prescribed fee has been paid is refused, and an appeal is made in respect of it;
- (b) the appeal is dismissed; and
- (c) within a period of 12 months beginning with the date of the dismissal of the appeal, a similar request is made –

no fee shall be payable in respect of that similar request.

6. Where:

- (a) a request for which the prescribed fee has been paid is deemed to be refused, and an appeal is made in respect of it;
- (b) within a period of 12 months beginning with the date of the expiry of the appropriate period mentioned in paragraph 30(4) of the Schedule, a similar request is made; and

- (c) the appeal has not, on or before the date of making of that similar request, been determined in favour of the appellant –
no fee shall be payable in respect of that similar request.

SCHEDULE 2

Article 4

TABLE OF FEES PAYABLE

Category of development for which approval is sought:	Fee Payable
<i>1. PLANS AND SPECIFICATIONS FOR THE FOLLOWING WORKS</i>	
A.	(a) Where no gross floor space is to be created by the development, £170;
(i) The erection, construction, alteration or extension of a building (including any transformer or telecommunications mast) excluding anything in C below	(b) where the area of gross floor space to be created by the development does not exceed 40 square metres, £170;
(ii) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression, or any other fences or walls	(c) where the area of gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £335;
(iii) The erection, construction or installation of lighting equipment	(d) where the area of gross floor space to be created by the development exceeds 75 square metres but does not exceed 3750 square metres £335 for each 75 square metres or part thereof of that area; and
B. Where no gross floor space is to be created by the development	e) where the area of gross floor space to be created by the development exceeds 3750 square metres, £16,565 and an additional £100 for each 75 square metres or part thereof subject to a maximum of £250,000.
C. Construction, alteration or extension of any terracing, cuttings, embankments or other earth works.	£170;
D. The erection, construction, alteration or extension of a pedestrian access to the railway line.	£170 for each 0.1 hectares or part thereof of the site, subject to a maximum of £1,700.
E. The disposal of waste or spoil or the excavations of bulk materials from borrow pits.	£170
F. Additional Details Request	£170 for each 0.1 hectare or part thereof of the site area, subject to a maximum of £25,500.
<i>2. CONSTRUCTION ARRANGEMENTS</i>	
Road transport	£85
Handling of re-usable spoil or top soil	£170
Storage sites	£170
Construction camps	£170
Screening	£170
Artificial lighting	£170
Suppression of dust	£170
Mud on highway	£170

3. BRINGING INTO USE

Bringing into use works referred to in paragraph 9(3) or 17(3) of the Schedule. £170

4. MITIGATION OR SITE RESTORATION SCHEMES

Mitigation or site restoration schemes. £170

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about fees for requests for planning approval made by the undertaker to relevant local authorities pursuant to Schedule 7 to the Crossrail Act 2008.

Article 3 stipulates that a fee shall be payable for such a request except in the circumstances mentioned in *Schedule 1*. *Article 4 and Schedule 2* set the fees payable in respect of the category of development work for which a planning application is made. *Articles 5, 6 and 7* contain provisions concerning fee payment, possible termination of a request if the prescribed fee is not paid, and resolution of fee disputes.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Major Projects Directorate, Department for Transport, Zone 2/19 Great Minster House, 76 Marsham Street, London SW1P 4DR. The Impact Assessment is also annexed to the Explanatory Memorandum which is available alongside the instrument on the website of the Office of Public Sector Information at www.opsi.gov.uk.

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