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The Scottish Parliament
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By email

22 April 2022

Dear Convenor,

High Speed Rail (Crewe - Manchester) Bill – Legislative Consent Memorandum

I refer to your letter of 4th April addressed to the Cabinet Secretary for Net Zero, Energy & Transport in respect of the above. I am responding on behalf of the Cabinet Secretary.

I am grateful for the scrutiny of the committee of the delegated powers relevant to Scotland in the High Speed Rail (Crewe-Manchester) Bill as referred to in the Legislative Consent Memorandum.

In regard to the matters raised within your letter, I can advise of the following in respect of the provisions:

- Schedule 5 Paragraph 15 (as modified by Schedule 33) – Designation of trunk or special roads

The Scottish Government is obliged to the committee for identifying an issue in relation to the appropriate level of involvement for the Scottish Ministers in any decision to designate works in Scotland as a trunk road or special road. We can advise that in respect of this provision, as is the case for the other provisions relating to roads, that though it is considered unlikely that any works will be required on the trunk road network in connection with this Bill the Scottish Government does not consider that the disapplication of the sections which relate to road works to be necessary.

Accordingly, the Scottish Government therefore does not recommend that the Parliament gives legislative consent to these provisions at this time and the draft motion with the Legislative Consent Memorandum (LCM) does not recommend consent for this provision.

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- Clause 18 (deemed planning permission) and Schedule 17 Paragraph 13 (as modified by Schedule 33) – Power to specify qualifying authority;
- Clause 18 (deemed planning permission) and Schedule 17 Paragraph 17 and 24(6) (as modified by Schedule 33) - Power to make provision about fees relating to requests for approval and appeals in connection with the payment of fees by means of a cheque
- Clause 18 (deemed planning permission) and Schedule 17 Paragraph 24 to 27 (as modified by Schedule 33) – Powers relating to modification of the appeals procedure
- Clause 19 (as modified by Schedule 33) - Power to extend the time limit of deemed planning permission

With regard to the provisions mentioned above, it will be for the UK Government to explain their justification for the approach taken in the Bill. The Scottish Government's reasons for considering the planning provisions as acceptable do not extend beyond the reasons given in the LCM.

We recognise the desire to have a pragmatic and broadly consistent approach to procedures across the project as a whole.

The proposals to which the provisions relate are supported in principle as reflected in the current National Planning Framework (NPF) 3 and draft NPF4 (see paragraph 31 of the LCM), and the proposals and procedures involved relate to a single site in Scotland.

In this specific context and these particular circumstances, the UK Government's approach in respect of these provisions is considered acceptable.

- Clause 58 - Power to make rules about the provision of arbitration of the Bill

The Scottish Government is grateful to the Committee for drawing this provision to its attention. We accept the proposal in respect of arbitration as it sets out a consistent procedure across the project and a common set of rules relating to the HS2 project in both England and Scotland and are content for the provision to be subject to consultation in the knowledge that any such consultation will follow well-established Gunning principles.

- Clause 22(1) and 22(2) and Schedules 18 and 19 (as modified by Schedule 33) - Power to disapply provisions related to listed buildings and ancient monuments.

The Scottish Government is content that these powers relating to listed buildings and ancient monuments may be exercised without a requirement to consult with or obtain consent from the Scottish Ministers.

As stated in the LCM (para 37), the Scottish Government and Historic Environment Scotland confirmed that there is minimal, or very limited impact, at the location, and that Historic Environment Scotland has been fully engaged with HS2 Limited for a number of years through the consultation process and the environmental impact assessment process.

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The Scottish Government therefore considers it appropriate to recommend that the Scottish Parliament consents to this provision given that it relates to this specific project which will have minimal impact on Listed buildings and ancient monuments in Scotland.

I trust that the explanations given address the issues you raise.

Yours sincerely,



JENNY GILRUTH

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