

Legislative Consent Memorandum

High Speed Rail (Crewe to Manchester) Bill

Background

1. This memorandum has been lodged by Michael Matheson MSP, Cabinet Secretary for Net Zero, Energy & Transport, under Rule 9.B.3.1(a) of the Parliament's standing orders. The **High Speed Rail (Crewe - Manchester) Bill** was introduced in the House of Commons on 24 January 2022. This hybrid Bill can be found at:

[High Speed Rail \(Crewe - Manchester\) Bill publications - Parliamentary Bills - UK Parliament](#)

Content of the High Speed Rail (Crewe - Manchester) Bill

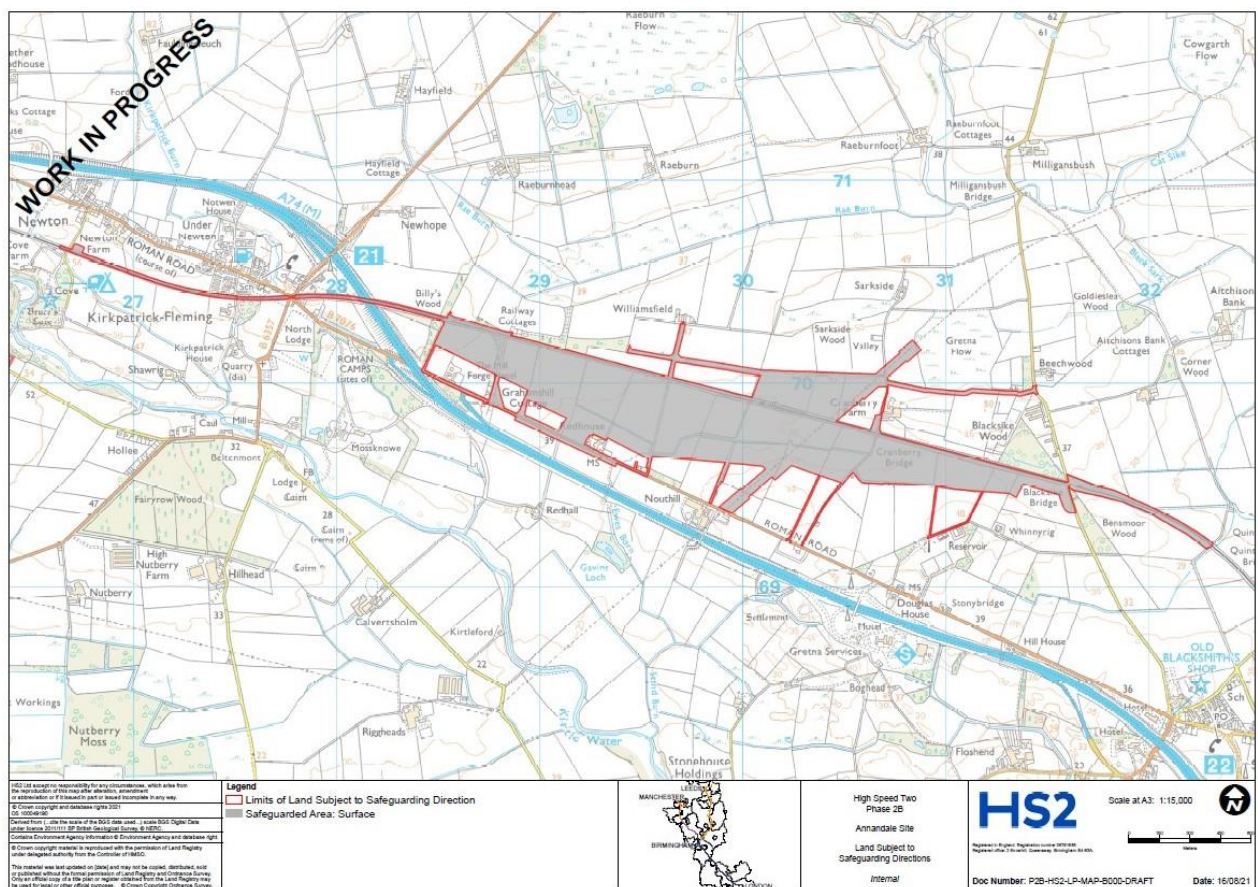
2. The Bill is a [hybrid Bill](#) and whilst it has general application, it also contains provisions which have a different legal effect on the private interests of particular persons, and different procedural terms. The Bill provides the necessary powers for the UK Government's Secretary of State for Transport as scheme promoter and the statutory undertaker to be nominated under the Bill to take forward the construction and operation of the Crewe to Manchester section of new high speed rail infrastructure. As regards Scotland, the Bill provides the authorisation and necessary powers for the construction of a train stabling facility for HS2 trains (a train maintenance depot) at Annandale.

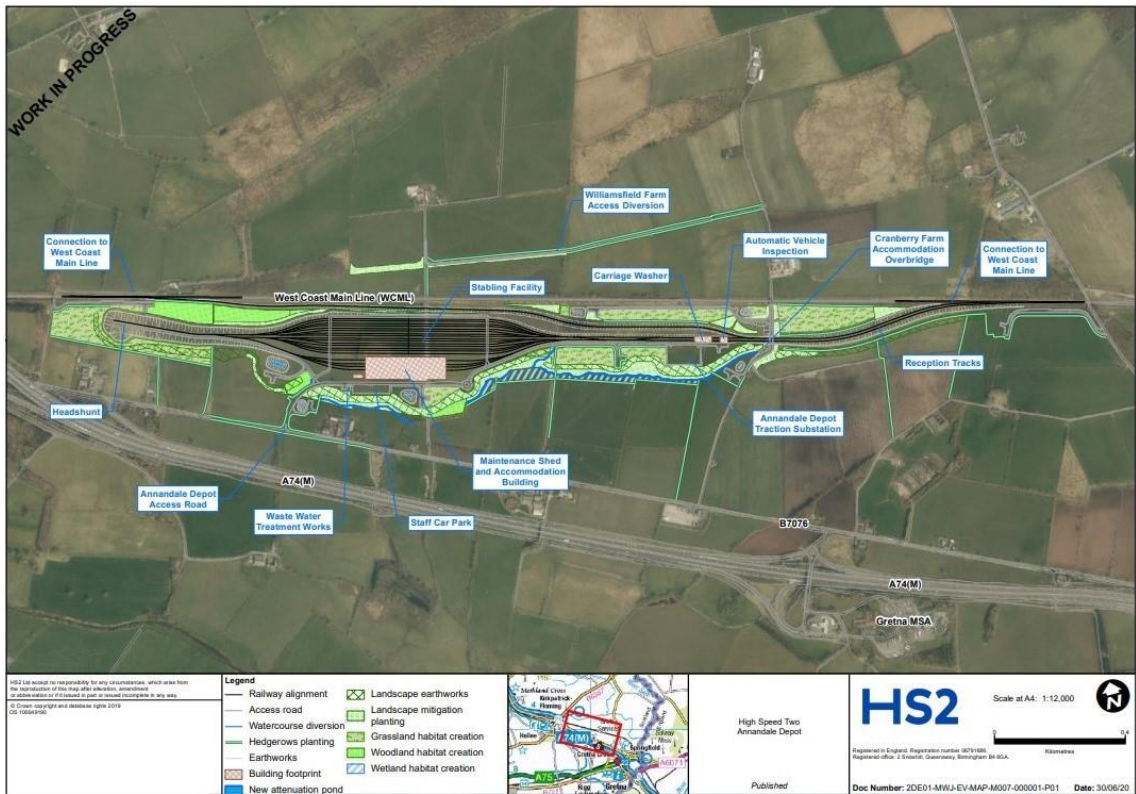
3. The general aim of the Bill is to put in place a comprehensive set of powers for the construction of the works in England and Scotland to enable the construction of the Crewe to Manchester section of HS2. Reflecting the authorisation of the scheme by the UK Parliament, it puts in place a bespoke planning regime including the statutory consents required for projects of this nature. The provisions of the Bill intend to deliver policy parity between England and Scotland, ensuring fair treatment for landowners and others across the scheme and to put in place a comprehensive framework to simplify and expedite the construction programme.

4. The [explanatory notes](#) accompanying the Bill set out the UK Government's view of its purpose and main functions. The UK Government gives the Bill overview (summarised) as follows:

- To confer the power required to construct part of the second phase – Phase 2b (Crewe to Manchester) of a proposed new national high speed rail network (known as High Speed 2 or 'HS2')

- This will involve the construction of a new railway line from Crewe to Manchester, serving new stations at Manchester Airport and Manchester Piccadilly
- A railway will also be constructed between Hoo Green in Cheshire and a junction with the rail West Coast Main Line at Bamfurlong (just south of Wigan), which will enable trains to transfer between the new HS2 line and the West Coast Main Line
- UK Government reports, consultations and reviews have taken place since 2010 including the High Speed Rail (Preparation) Act 2013 which authorised the Secretary of State to incur expenditure in preparation for the construction of the high speed rail network
- The Bill contains provisions which trigger the Sewel convention and whilst cross-border rail infrastructure is a reserved matter there are provisions in the Bill which require that consent to legislate is sought from the Scottish Parliament
- A new train stabling facility for HS2 trains (a train maintenance depot) will also be constructed between Gretna Green and Kirkpatrick Fleming in Dumfries and Galloway (at Annandale), (The following figures show, respectively, the location of, and facilities at, the proposed Annandale depot)





- Subject to the successful passage of this Bill the construction of the Crewe to Manchester section of HS2 would commence immediately following Royal Assent, and this phase could be completed and become operational between 2035 and 2041

Provisions which relate to Scotland

5. The Bill extends as a whole to Scotland although the authorisation of works and associated acquisition of land is essentially local in nature. The specific works to be authorised by the Bill, including works in the Dumfries and Galloway local authority area in Scotland, are described in Schedule 1. The Bill makes a range of provisions for the purposes of these works, including for the purposes of the construction of the works, conferring the necessary functions on the Secretary of State and the nominated undertaker, making provision as regards matters such as land acquisition and planning and dealing with a range of other regulatory matters as regards the works and affected land. In their application to land and works in Scotland, the provisions of the Bill are modified by Schedule 33.

Provisions which require legislative consent

6. The Scottish Government considers that a number of the Bill's provisions make provision for a devolved purpose, or alter the executive competence of the Scottish Ministers, and as such require the legislative consent of the Scottish Parliament. The UK Government agrees with the Scottish Government's view as

regards some, but not all, of the relevant clauses. In particular, the UK Government considers that legislative consent is required in respect of:

- clause 11 (as modified by paragraph 10 of schedule 33)
- clause 27,
- clause 34,
- clause 51 (as modified by paragraph 25 of schedule 33)
- clause 54A (as inserted by paragraph 26 of schedule 33),
- schedule 5 (as modified by paragraph 34 of schedule 33),
- schedule 15 (as modified by paragraph 37 of schedule 33),
- schedule 17 (as modified by paragraph 38 of schedule 33),
- schedule 20 (as modified by paragraph 41 of schedule 33),
- schedule 24 (as modified by paragraph 44 of schedule 33).

7. The Scottish Government agrees that legislative consent is required as regards the provisions identified by the UK Government, except schedule 15. Schedule 15 contains provision on temporary possession and use of land. In particular, it puts in place a procedure for agreeing between the nominated undertaker, planning authority and the landowners a scheme as regards the condition of the land before the nominated undertaker gives up possession of the land. It provides for the Secretary of State in consultation with the Scottish Ministers to put in place a scheme where none is agreed. It makes specification with regard to a scheme in that case with regard to restoring land to its previous conditions with certain caveats on removal of and replacement of certain works. It also includes provision on reimbursement of planning authority expenses in assisting the Secretary of State and the Scottish Ministers in putting in place a scheme in such cases.

8. The UK Government considers that legislative consent is required for this provision because it entails an alteration of the Scottish Ministers' executive competence in that it may replace their functions in relation to planning appeals under section 47 of the Town and Country Planning (Scotland) Act 1997. The Scottish Government does not consider that schedule 15 has any effect as regards those functions.

9. The Scottish Government considers that legislative consent is required for the following additional provisions:

- clauses 18 and 19 and schedule 17 (as modified by paragraphs 16, 17 and 38 of schedule 33),
- clause 22 and schedules 18 and 19 (as modified by paragraphs 39 and 40 of schedule 33),
- clause 23 (as modified by paragraph 19 of schedule 33),
- clause 26 (as modified by paragraph 20 of schedule 33),
- clause 28 and schedule 21 (as modified by paragraph 42 of schedule 33),
- clause 29 and schedule 22 (as modified by paragraph 43 of schedule 33),
- clause 43 and schedule 31 (as modified by paragraphs 21 and 47 of schedule 33),
- clause 48 (as modified by paragraph 23 of schedule 33),

- clause 57 (as modified by paragraph 29 of schedule 33)

Reasons for seeking a legislative consent motion

10. The Scottish Government has reviewed the Bill and issues around legislative consent in light of the Scottish Government's strong support for high speed rail, and the increased connectivity it provides, as well as supporting the location of the rail depot at Annandale. Within this context, the Scottish Government has considered the UK Government's request for legislative consent.

11. The Scottish Government considers that legislative consent can be recommended at this time for many, but not all, of the provisions identified as requiring consent. Given the nature of the Bill, and expected length of passage and required amendments, subsequent legislative consent memorandums may be required.

At this time, the Scottish Government recommends that the Scottish Parliament gives its consent to the following provisions.

Planning

12. Clauses 11, 18, 19, 26, 34, 43, 48, 57, schedule 17 and schedule 31 make provision in relation to town and country planning which is devolved matter. The Scottish Ministers' executive competence is altered by clauses 11 and 34 with regard to, respectively, certain order and regulation making powers - see entries below. Clause 23 and schedule 20 have also been identified as having devolved planning purpose.

Clause 11 - Extinction of rights of statutory undertakers.

13. This applies, with modification, provisions (S224 to S226) in the Town and Country Planning Scotland Act 1997 ("the 1997 Act") to the nominated undertaker¹ in relation to the land and development covered by the Bill. The provisions relate to the removal of statutory undertakers' or electronic communications code network operators' ("ECCNO") rights in, or apparatus on, the land. Also undertakers and ECCNOs can seek access to such land to deal with their apparatus.

14. These procedures can lead to the Scottish Ministers making an order as regards the removal of such rights or apparatus. Where clause 11 applies and an order is required, this would be a matter for the Secretary of State in consultation with the Scottish Ministers (rather than the Scottish Ministers), so altering Scottish Ministers' executive competence regarding the making of such orders.

¹ "nominated undertaker" A person specified in regulations made under the Bill by the Secretary of State for the purposes of such provisions of the Bill as may be specified.

Clause 18 (and schedule 17) - Deemed planning permission

15. Clause 18 grants deemed planning permission for development authorised by the Bill. It applies schedule 17 which sets out conditions imposed on the deemed planning permissions and replaces existing approval procedures for conditions with a bespoke one, including various parameters on a planning authority's ability to refuse or approve conditions on various issues. There are consultation requirements with certain bodies specified.

16. The Secretary of State can grant approval for classes of works for parts or across the project. The Secretary of State also designates 'qualifying authorities' for approval of conditions (planning authorities who have given undertakings as regards dealing with the project). In relation to approval applications, the Secretary of State in consultation with the Scottish Ministers has powers to deal with appeals, set application fees, prevent approvals being given and call-in applications for his determination.

Clause 19 - Time limit on deemed planning permission

17. This replaces the time limit provisions in the 1997 Act on starting development with an extended period (10 years) linked to the date the Act is passed. It allows the Secretary of State to extend this period for any such development. The project as a whole is of considerable scale and complexity, suggesting potentially long lead in times.

Clause 23 and schedule 20

18. This clause removes restrictions on works authorised under the Bill by other enactments or obligations relating to burial grounds. This does not apply where the disturbance of human remains would be involved unless the latter is addressed in line with requirements in schedule 20.

19. Section 197 of the Town and Country Planning (Scotland) Act 1997 allows for the development of land held by a Minister, statutory undertaker or planning authority notwithstanding enactments or obligations with provisions on burial grounds, churchyards and the like and no authority is required for the removal of remains. This provision would apply to any land acquired for the HS2 project.

20. Clause 23 and schedule 20 could add requirements where section 197 would otherwise remove them, so cut across devolved competence (i.e. the Scottish Parliament could specify requirements in relation to section 197 of the 1997 Act). From a planning perspective these are considered acceptable (to the extent they introduce requirements relating to development where none would otherwise apply) and the Scottish Government considers it appropriate to recommend that the Scottish Parliament consents to them.

Clause 26 - Trees

21. This clause removes the requirements in relation to tree preservation orders (“TPO”) and trees in conservation areas under the 1997 Act (sections 160(1), 164(1), 172(1) and 172(5). It applies to ‘tree works’ related to the construction of works authorised by the Bill on land within the Bill limits and for maintenance and safety purposes.

22. Requirements for planning authority consent under a TPO or as regards advance notice of works affecting trees (without a TPO) in a conservation area. Also exceptions to requirements in this regard are not unusual in other contexts as regards maintenance and safety issues.

Clause 34 - Community Infrastructure Levy

23. Section 54 of the Planning (Scotland) Act 2019 (“the 2019 Act”) provides that the Scottish Ministers may make regulations establishing an infrastructure levy, the income from which would be payable to local authorities for the purposes of funding infrastructure projects.

24. Clause 34 exempts development and the developer from any liability to pay any such levy under such regulations (it does the same regarding the community infrastructure levy legislation that applies in England), thus altering the Scottish Ministers’ executive competence as regards making these regulations. These provisions in the 2019 Act have yet to commence, and policy development to inform any regulations made under section 54 is at an early stage. Clause 34 is not considered unduly prejudicial to that work - principally because its practical effect is likely to be marginal.

Clause 43 and Schedule 31 - Extension of planning permission for statutory undertakers

25. Clause 43 applies Schedule 31 which relates to certain works carried out by statutory undertakers and removes the restriction on the planning permission granted by permitted development rights (PDRs)² which would otherwise apply where an Environmental Impact Assessment (“EIA”) is required. This only applies to specified classes of PDR and where the works in those classes are covered by the EIA for the Bill. The Secretary of State can specify additional requirements regarding the exercise of such PDR, and the aim is to avoid duplication and related process.

² PDR is the name given to the planning permission granted by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, which removes the need to apply for such permission for specified developments where any conditions and controls in the order are met.

Clause 48 - Planning permission: works involving reinstatement of undertaking

26. This allows the Secretary of State to disapply the planning permission under Clause 18 (and approvals under Schedule 17) in relation to reinstatement works of businesses and facilities and the like affected by the exercise of powers under the Bill. It then allows the Secretary of State to direct that planning permission for such development is granted subject to conditions in the direction and can apply for a person specified in the direction. It allows the planning permission on reinstatement to be finessed, the argument being to avoid such works holding up the project.

Clause 57 - Environmental Impact Assessment Regulations: miscellaneous

27. Clause 57 modifies the Town and Country Planning (Environmental Impact Assessment (Scotland) Regulations 2017 (“the EIA Regulations”) to ensure commercial redevelopment on HS2 sites going through the normal planning application process and which would be likely to have significant environmental effects is subject to the EIA Regulations.

Planning Policy Consideration - General

28. Devolved competence in planning is not dependent on whether the purpose of the development is reserved, such as rail or energy developments. The Scottish Ministers have executive competence to grant planning permission for such development, and do so. The Scottish Parliament has legislative competence over planning. The Bill grants planning permission and modifies aspects of planning legislation, i.e. makes provision for a devolved purpose, planning, in relation to a development in a reserved area, rail.

29. These clauses all make provision where the Scottish Parliament could: granting planning permission and modifying planning legislation, which are within devolved competence. In addition, clauses 11 and 34 affect the executive competence of the Scottish Ministers, giving powers to the Secretary of State in consultation with the Scottish Ministers.

30. The Scottish Government considers that consent to legislate should include these planning-related clauses and schedules as they are for the devolved purpose of town and country planning. In addition, clauses 11 and 34 alter the executive competence of the Scottish Ministers.

31. The majority of the works at the Annandale site (track, electrification, and depot buildings) is consistent with the identification of high speed rail related developments; currently included as a *national development* in the current National Planning Framework (NPF) 3. The draft National Planning Framework 4 expands this description further to include high speed rail depot facilities.

32. The Scottish Government recognises the need to have a consistent approach across the project as a whole, whether works are in England or Scotland, and the desire to have expedient procedures where approval for it has already been given by the UK Parliament.

33. As regards Scotland, we also recognise that these clauses would apply only in relation to the land identified and works authorised under the Bill in relation to the Annandale depot site and to works authorised by the Bill at that site.

34. For these reasons, in addition to the points noted against specific clauses, the Scottish Government considers it appropriate to recommend that the Scottish Parliament consents to these planning-related clauses and related schedules.

Footpaths and bridleways

35. Paragraph 3 of schedule 5, as modified by paragraph 34 of schedule 33, requires the Secretary of State, acting in consultation with the Scottish Ministers to consent to a proposal by the nominated undertaker to stop up a footpath or bridleway within the “Act limits” (see clause 63) for the purposes of or in connection with the construction of works authorised by the Bill. The Scottish Ministers have an existing power to authorise the stopping up of bridleways and footpaths on the application of a planning authority under section 34 of the Countryside Act 1967 and so paragraph 3 of schedule 5 legislates in an area in which the Scottish Ministers already have an existing devolved function. This power cuts across that devolved function and as such requires the Scottish Parliament’s consent. The exercise of the equivalent function by the Secretary of State under the Bill, and of the power conferred on the nominated undertaker to stop up footpaths and bridleways, is geographically very limited and the Secretary of State must be satisfied that an alternative will be provided or that none is required. The Scottish Government therefore recommends consent to this provision.

Listed buildings and ancient monuments

36. Clause 22, and schedules 18 and 19 as read with paragraphs 39 and 40 of schedule 33, relates to listed buildings and ancient monuments and lessens statutory controls. This entails altering devolved legislative controls in relation to listed buildings and schedule monuments, disapplying some provisions and sets out the framework for Historic Environment Scotland and the planning authority to engage on these issues.

37. The Scottish Government and Historic Environment Scotland can confirm that there is minimal, or very limited impact, at the location, and that Historic Environment Scotland has been engaged with HS2 limited for a number of years through the environmental impact assessment process. The Scottish Government therefore considers it appropriate to recommend that the Scottish Parliament consents to this provision.

Energy consents

38. Clause 27 disapplies the requirement under section 37 of the Electricity Act 1989 for the Scottish Ministers' consent for overhead electrical lines installed within the Act limits where the installation of the line is authorised by the Act and has deemed planning permission under clause 18(1). Given the nature of the project and limited geographical scope, the Scottish Government considers it appropriate to recommend that the Scottish Parliament consents to this provision.

The Scottish Government does not recommend that the Scottish Parliament gives its consent, at this time, to the following provisions:

Water environment

39. Clause 28 disapplies the requirement in regulation 4 of Water Environment (Controlled Activities) (Scotland) Regulations 2011 ("CAR") that "controlled activities" be authorised and are carried out in accordance with that authorisation. Regulation 3(1) of CAR lists what constitutes a controlled activity. For the abstraction of water from the water environment (regulation 3(1)(b) of CAR), this clause disapplies regulation 4 for the *construction of the works* authorised by the Bill. For all other controlled activities listed in regulation 3(1) of CAR, which includes activities liable to cause pollution of the water environment or carrying out building or engineering works which are likely to have a significant adverse impact on the water environment, this clause disapplies regulation 4 for *works* that are carried out for purposes of the Bill. While the disapplication of CAR is provided for in connection with a reserved transport project, it is considered to have a devolved environmental protection purpose.

40. Schedule 1 of the Bill lists the scheduled works that are to be undertaken by the nominated undertaker. In Scotland, these include the realignment of a watercourse, the diversion of a burn and the construction and maintenance of a depot. Although it is not clear to what extent such works may be likely to cause pollution to or adverse effects on the water environment, it is not considered appropriate for these provisions to be disapplied, as a proper assessment of likely impacts will be required, and any necessary steps taken to prevent potential environmental harm. Whilst it is understood that it may be normal practice in England to disapply certain environmental regimes when major construction projects are being undertaken, it is not normal practice in Scotland. CAR does not contain any exemptions and previous projects in Scotland, such as the Queensferry Crossing and various major road projects, have been subject to authorisation by SEPA under CAR. This approach ensures that any potential for pollution or impacts from the construction site activities is properly managed to prevent any pollution entering the water environment. We recognise the desire to have a consistent approach across the project as a whole, whether works are in England or Scotland. However, the overarching aim of CAR is to protect the water environment in Scotland, and the Scottish Government therefore does not recommend that the Scottish Parliament gives its consent to this provision at this time.

Building standards

41. Clause 29 and schedule 22, as modified by paragraph 43 of schedule 33, make provision about the application of the Building (Scotland) Act 2003. In particular, these provisions disapply Parts 1 and 2 of the Building (Scotland) Act 2003 (in relation to buildings, building standards, work in relation to buildings and for connected purposes) and the regulations made under that Act, in respect of buildings held by the Secretary of State or the nominated undertaker and used, or intended to be used, by the nominated undertaker, for the purposes of its undertaking under the Act. The exceptions are hotels, houses, offices, and showrooms. Building standards generally are a devolved matter and so it is considered that legislative consent is required for these provisions.

42. The building standards system is pre-emptive and is designed to check that proposals meet building regulations. The main principles of the system are that a building warrant must be obtained before work commences on site and a completion certificate is accepted by a verifier if, after undertaking reasonable inquiry, they are satisfied the building work meets the building regulations, prior to the building being occupied. The system is intended to ensure that building work on new and existing buildings results in buildings that meet reasonable standards, which are set out in The Buildings (Scotland) Regulations 2004.

43. While the value of consistency of approach across the project as a whole is recognised, whether works are in England or Scotland, and it is acknowledged that these clauses would apply only in relation to the construction work on the land identified and authorised under the Bill in relation to the Annandale site. The overarching aim of the Building (Scotland) Act 2003 is to secure the health, safety and welfare of building occupants, and to date there has been no detailed explanation offered why building regulations should not be applied. It is not therefore considered appropriate for these standards to be disapplied, and the Scottish Government does not recommend that the Parliament gives legislative consent to this provision at this time.

Roads

44. Schedule 24 as modified by Paragraph 44 of schedule 33, disapplies sections 56 to 60 of the Roads (Scotland) Act 1984 in relation to works under, and powers conferred by, the Bill. Sections 56 to 60 make provision conferring functions on the Scottish Ministers as the roads authority for trunk roads, including the requirement to obtain the Scottish Ministers' consent to carry on works on such roads, and which relates to the devolved matter of roads maintenance. Schedule 24 as modified by paragraph 44 of schedule 33 also disapplies sections 115, 115A, 117, 120 and 121 of the New Roads and Street Works Act 1991 which otherwise confer various functions on the Scottish Ministers as a road works authority to control the activities of undertakers in the devolved area of road works.

45. Having reviewed the descriptions of works and associated plans it is considered unlikely that any works will be required on the trunk road network in

connection with this Bill. Furthermore, the Scottish Government does not consider that the disapplication of the sections which relate to road works to be necessary. The Scottish Government therefore does not recommend that the Parliament gives legislative consent to these provisions at this time.

Crown land and Scottish Crown Estate

46. Clause 51 of the Bill, as amended by paragraph 25 of schedule 33, provides that the powers conferred on the nominated undertaker may be exercised on Crown land only with the consent of the relevant Crown authority. It is provided that for Crown land in Scotland in which there is an interest belonging to an office-holder in the Scottish Administration or which is held in trust for Her Majesty for the purposes of the Scottish Administration, the Scottish Ministers are to be the Crown authority and a new function is therefore to be conferred on the Scottish Ministers. Managers of Scottish Crown Estate assets are to be designated as a Crown authority for the purpose of consenting to powers conferred on the nominated undertakers exercised in relation to land forming part of the Scottish Crown Estate. In addition, paragraph 26 of schedule 33 inserts clause 54A into the Bill which makes provision about the application of the Scottish Crown Estate Act 2019. In particular, these provisions disapply certain statutory duties (under section 10, 11(1) and 14(1) of the Scottish Crown Estate Act 2019) on managers of assets forming part of the Scottish Crown Estate and removes the Scottish Ministers' functions as regards granting consent to certain disposals of assets forming part of the Scottish Crown Estate in relation to land within the Act limits which appear to be required for the purposes of Phase 2b of HS2. Management of the Scottish Crown Estate is a devolved matter. These provisions therefore alter the Scottish Ministers' executive competence and, as regards Scottish Crown Estate assets, in a devolved area. The provisions modifying the functions and duties of managers of Scottish Crown Estate assets are for a devolved purpose (management of the Scottish Crown Estate).

47. Engagement with Crown Estate Scotland has confirmed the development of the Annandale depot has no potential impact on the Scottish Crown Estate. No land managed by them is affected. The Scottish Government has already raised the possible removal of the provisions affecting the Scottish Crown Estate with the UK Government. The Scottish Government therefore does not recommend that the Parliament gives legislative consent to this provision at this time.

Consultation

48. There has been detailed consultation on the route of Phase 2 of HS2 by the UK Government over the past ten years including a consultation and an appraisal of sustainability, two Command Papers (the latter of which confirmed the Phase 2b route), and consultation on seven route refinement areas (including the possibility of a rail depot on the northern section of the route). In July 2017 the UK Government announced a decision on these refinements and confirmed the remainder of the preferred route for Phase 2b.

49. More recently in 2018 the Department for Transport (DfT) consulted the Scottish Government's Transport Agency (Transport Scotland) on potential depot options in Scotland for the 'northern' train depot and in early 2019 the DfT/HS2 Limited advised that a site at Annandale (rather than at Todhills in Cumbria) would be the favoured location for the depot. In October 2020, with full knowledge and agreement of the Scottish Government, HS2 Limited initiated a 12-week public consultation on proposals for the site at Annandale as part of the second Design Refinement Consultation on the Bill.

50. In relation to the Bill, consultations were undertaken on the working draft Environmental Statement and working draft Equality Impact Assessment Report in 2018. The Oakervee Review of HS2, established by the Prime Minister to provide advice to government to consider whether and how to proceed with HS2 ahead of the Notice to Proceed decision for HS2 Phase One, reported in 2020 that the project should, subject to caveats, proceed. In 2021, the Integrated Rail Plan confirmed the UK Government's intention, to build HS2 from Crewe to Manchester with new stations at Manchester airport and Manchester Piccadilly.

51. The Scottish Government's Fourth National Planning Framework, the long-term strategy for Scotland and spatial expression of the Scottish Government Economic Strategy, is currently published in draft for consultation. It identifies high speed rail as a national development and includes the designation of depot facilities for high speed trains including those related to the construction and maintenance of the UK high speed rail infrastructure. High Speed Rail is already recognised as a national development in the current National Planning Framework. The Strategic Transport Projects Review Two has recently been published for consultation by Transport Scotland, alongside statutory and environmental impact assessments; this Review recognises the role high speed rail has in facilitating longer-distance journeys.

Financial Implications

52. There are no significant financial implications, or additional costs, envisaged from the content of the Bill and the High Speed Rail programme is entirely funded by the UK Government. Passenger rail services into, and out of, Scotland should commence upon the completion of the High Speed Rail Phase 1 works which are currently under construction. The operation of the new rail depot at Annandale, which is the subject of this memorandum, will be the responsibility of the future high speed rail operator.

Conclusion

53. It is the view of the Scottish Government that it is preferable that to the extent that the relevant provisions make provision for a devolved purpose, or alter the Scottish Ministers' functions/executive competence, consent to legislate is sought from Parliament for the provisions identified. We also anticipate the requirement for further legislative consent memorandums in relation to this Bill. The Scottish Government recommends consent to those provisions indicated as such in this Memorandum.

Draft Legislative Consent Motion

54. The draft motion, which will be lodged by the Cabinet Secretary for Net Zero, Energy & Transport is:

“That the Parliament agrees that the relevant provisions of the High Speed Rail (Crewe - Manchester) Bill introduced in the House of Commons on 24 January 2022 relating to the granting of deemed planning permission for the construction of a train stabling facility (maintenance depot) at Annandale and associated provisions which alter the effect of the Town and Country Planning (Scotland) Act 1997, the Planning (Scotland) Act 2019, and other provision as regards planning; disapplying controls as regards listed buildings and ancient monuments; disapplying the requirement for Ministerial consent under section 37 of the Electricity Act 1989 and making provision for the stopping up of footpaths and bridleways for the purposes of or in connection with works authorised by the Bill should, so far as they are for a devolved purpose or alter the Scottish Ministers' executive competence, be considered by the UK Parliament.”

Scottish Government
February 2022

This Legislative Consent Memorandum relates to the High Speed Rail (Crewe - Manchester) Bill (UK legislation) and was lodged with the Scottish Parliament on 7 February 2022

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