

By Email and Post

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Our Ref: AMHG/18136/275
You ref: TR040002

8 June 2012

Dear Mr White,

**Infrastructure Planning (Fees) Regulations 2010
Application for Development Consent by Network Rail Infrastructure Limited for the
proposed Ipswich Rail Chord, 1 km north of Ipswich Goods Yard**

Network Rail has instructed me to write to you following your letter to Colin Murphy of 23rd May and my conversations with your colleague Jeff Penfold concerning the calculation of the final fee payable in respect of this application. First, though, I should make clear that as regards the Ipswich Chord Order arrangements have been put in hand for payment of the final fee as demanded to be made by the due date. If as the result of this letter the amount is revised, any overpayment can be refunded. This letter should not therefore give rise to any delay in the processing of the Order.

My instructions are specifically in respect of the proposed Ipswich Chord Order, but what I say applies equally to Network Rail's North Doncaster application.

As explained in your letter, the 94 relevant days have been calculated as the total number of working days during the examination period. Jeff Penfold confirmed to me on 1st June that this reflected days on which work had been carried out, not just by Mr Amos as Examining Authority but also by the supporting secretariat.

This interpretation of "relevant day" does not in our view accord with the definition in regulation 9(3) of the 2010 Fees Regulations. The regulation is clear, that a relevant day is one on which the application was examined by the Examining Authority i.e. (see regulation 2(1)) the Panel or (as in this case) single Commissioner appointed to examine the application. It seems clear, therefore, that a day is not a relevant day unless it is one on which the Examining Authority actually examined (for which we read "worked on") the application.

We should be grateful if you would explain the reasoning behind your interpretation of "relevant day" and let us have your comments on our own reading of the definition.

May we also please see a breakdown of the time giving rise to the 94 day figure. Jeff Penfold confirmed that you do operate to timesheets. In similar circumstances elsewhere, faced with a fee based on a time element, Network Rail is accustomed to seeing particulars showing how the time has been made up. In the case of this firm, for instance, we provide a copy of the time

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ledger. Please may we see appropriate timesheet extracts or, if that is not possible, a computed breakdown showing the time spent on different days by the Examining Authority and the various secretariat staff who have worked on this Order.

You will appreciate that Network Rail is partly funded out of public money. It is therefore incumbent on the company to secure details such as these so that it can trace how that money has been spent.

We apprehend you may receive a similar request from Bircham Dyson Bell in respect of the North Doncaster Order.

Yours sincerely,

Alison M H Gorlov
Partner

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Your Ref: AMHG/18136/275

Our Ref: TR040002

Date: 12 July 2012

Dear Ms Gorlov

Re Infrastructure Planning (Fees) Regulations 2010
Application for Development Consent by Network Rail Infrastructure Limited for the
proposed Ipswich Rail Chord, 1km north of Ipswich Goods Yard.

I refer to your letter dated 8 June 2012 which has been passed to me for reply. I apologise for the delay in responding to you on this matter.

I am grateful to you for your confirmation that the issues you raise will not delay the payment of the fee as set out to you.

To clarify the methodology for the calculation of the fee, this is set out in regulation 9 (3) of the Infrastructure Planning (Fees) Regulations 2010 (as amended) and in related guidance referred to in paragraph 9 of The Infrastructure Planning (Fees) Regulations 2010 Guidance (February 2010). This also has an accompanying impact assessment which details the way in which fees should be calculated. The method of calculation is set out in page 13 of the impact assessment which states

"Once the IPC estimates the number of "working days" (i.e. the total number of days from examination start to end, normally excluding weekends and public holidays) needed to undertake its examination, this is multiplied against the relevant day-rate to provide an estimated overall cost. The applicant pays 50% at the start of examination and the remaining costs at the end of examination – this provides a degree of flexibility, both in terms of not overcharging promoters where cases are handled quicker than expected but also for recovering additional costs where they take longer".

Cont...



From this information the distinction is clear in that the calculation is based on working days and not worked days. The examination fee takes into account other costs borne by the Inspectorate in relation to staff resources, accommodation and other costs incurred in supporting the Examining authority, and hence the daily rate is set out to reflect this.

I have attached a link to the explanatory memorandum and the impact assessment which I trust provides the clarity you need on how the calculation has been reached. In the light of this I do not believe that it is necessary to provide a breakdown of the timesheets as these are not used in the costs calculation and thus their details would not alter the method of fee calculation.

Explanatory memorandum and impact assessment can be found at

http://www.legislation.gov.uk/uksi/2010/102/pdfs/uksiem_20100102_en.pdf

I trust that you find this helpful.

Yours sincerely

Janet Wilson
Head of Case Management
National Infrastructure Directorate

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.