SCHEDULES

SCHEDULE 6

PLANNING CONDITIONS

PART IV

SUPPLEMENTARY

Appeals

32 (1) Where the nominated undertaker is aggrieved by a decision of a planning authority on a request for approval under Part II or III of this Schedule (including a decision under sub-paragraph (2) of paragraph 5, 6, 14, 15, 21 or 22 above), it may appeal to the **[**[F1]Secretary of State**]** by giving notice of the appeal in the prescribed form to **[**[F2]him**]** and the authority whose decision is appealed against within 28 days of notification of the decision.

(2) On an appeal under this paragraph, the **[**[F1]Secretary of State**]** may allow or dismiss the appeal or vary the decision of the authority whose decision is appealed against, but may only make a determination involving the refusal of, or imposition of conditions on, approval on grounds open to that authority.

(3) Where, following receipt by a planning authority of a request by the nominated undertaker for relevant approval, the authority does not notify the undertaker within the appropriate period—

(a) of its decision on the request, or

(b) that the request has been referred to the **[**[F1]Secretary of State**]** in accordance with directions under paragraph 30 above,

this paragraph shall apply as if the authority had refused the request and notified the undertaker of its decision on the last day of the appropriate period.

(4) For the purposes of sub-paragraph (3) above, the appropriate period is the period of 8 weeks beginning with the date on which the request was received by the planning authority or such extended period as may at any time be agreed upon in writing between the authority and the nominated undertaker.

(5) The **[**[F1]Secretary of State**]** may by regulations make provision for the extension of the appropriate period for the purposes of sub-paragraph (3) above in connection with the payment of fees by means of cheque.

(6) The power to make regulations under sub-paragraph (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this paragraph, "prescribed" means prescribed by regulations made by the **[**[F1]Secretary of State**]**.

Textual Amendments

F1 Words in Sch. 6 para. 32(1)(2)(3)(b)(5)(7) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(e)(i)**

F2 Words in Sch. 6 para. 32(1) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(e)(ii)**

33 No appeal under section 78 of the [M1]Town and Country Planning Act 1990 (right to appeal against planning decisions and failure to take such decisions) may be made against a decision, or failure to notify a decision, in relation to which a right of appeal arises under paragraph 32 above.

Marginal Citations

M1 1990 c. 8.

34 (1) Unless the **[**[F3]Secretary of State**]**[[F4]directs**]** otherwise, **[**[F4]his**]** functions in relation to the determination of an appeal under paragraph 32 above shall, instead of being carried out by **[**[F4]him**]**, be carried out by a person appointed by **[**[F4]him**]** for the purpose.

(2) The **[**[F3]Secretary of State**]** may by a further direction revoke a direction under sub-paragraph (1) above at any time before the determination of the appeal.

(3) A direction under sub-paragraph (1) or (2) above shall be served on the nominated undertaker and the planning authority whose decision is appealed against.

(4) At any time before the determination of an appeal by a person appointed for the purpose under this paragraph, the **[**[F3]Secretary of State**]** may revoke his appointment and appoint another person to determine the appeal instead.

(5) Where the function of determining an appeal under paragraph 32 above is transferred from one person to another, the person to whom the function is transferred shall consider the matter afresh, but the fact that the function is transferred shall not entitle any person to make fresh representations or to modify or withdraw any representations already made.

(6) If the **[**[F3]Secretary of State**]**[[F5]determines**]** an appeal which another person was previously appointed to determine, **[**[F5]he**]** may, in determining it, take into account any report made to **[**[F5]him**]** by that person.

Textual Amendments

F3 Words in Sch. 6 para. 34(1)(2)(4)(6) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(f)(i)**

F4 Words in Sch. 6 para. 34(1) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(f)(ii)-(iv)**

F5 Words in Sch. 6 para. 34(6) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(f)(v)-(vii)**

35 The decision of the person appointed under paragraph 34 above, or, as the case may be, of the **[**[F6]Secretary of State**]**, on an appeal under paragraph 32 above shall be final.

Textual Amendments

F6 Words in Sch. 6 para. 35 substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(g)**

36 (1) An appeal under paragraph 32 above shall be dealt with on the basis of written representations, unless the person deciding the appeal directs otherwise.

(2) Subject to that, the **[**[F7]Secretary of State**]** may by regulations make such provision as **[**[F8]he thinks**]** fit about procedure in relation to appeals under paragraph 32 above.

(3) Regulations under sub-paragraph (2) above may, in particular—

(a) make provision for a time limit within which any person entitled to make representations must submit them in writing and any supporting documents,

(b) empower the person deciding an appeal to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and

(c) empower the person deciding an appeal, after giving written notice of his intention to do so to the nominated undertaker and the planning authority whose decision is appealed against, to proceed to a decision notwithstanding that no written representations were made within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.

(4) Regulations under sub-paragraph (2) above may, in relation to such a time limit as is mentioned in sub-paragraph (3)(a) above—

(a) prescribe the time limit in the regulations, or

(b) enable the **[**Secretary of State**]** to give directions setting the time limit in a particular case or class of case.

Textual Amendments

F7 Words in Sch. 6 para. 36(2)(4)(b) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(h)(i)**

F8 Words in Sch. 6 para. 36(2) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, **32(h)(ii)**

37 (1) Regulations under paragraph 32 or 36 above may make different provision for different cases.

(2) The power to make regulations under paragraph 32 or 36 above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Changes to legislation:
There are currently no known outstanding effects for the Channel Tunnel Rail Link Act 1996, Cross Heading: Appeals.