

SCHEDULES

SCHEDULE 7

Section 10

PLANNING CONDITIONS

PART 1

QUALIFYING AUTHORITIES

Specification

- 1 (1) As soon after the day on which this Act is passed as the Secretary of State considers reasonably practicable, he shall, by order made by statutory instrument, specify every relevant local authority which—
 - (a) had, on or before the day on which the Bill for this Act was reported from Select Committee in the House of Lords, given him undertakings with respect to the handling of planning matters arising under this Schedule which he considered satisfactory, and
 - (b) has not subsequently been released from its undertakings.
- (2) Subject to the following provisions of this paragraph, an authority which is specified under sub-paragraph (1) is a qualifying authority for the purposes of this Schedule.
- (3) The Secretary of State may, if he considers it expedient to do so, by order made by statutory instrument provide that an authority shall cease to be a qualifying authority for the purposes of this Schedule.
- (4) If, in relation to a relevant local authority which is not a qualifying authority for the purposes of this Schedule, the Secretary of State considers that the way in which the authority carries out its functions has been significantly affected by a change of circumstances occurring since the relevant day, he may by order made by statutory instrument provide that the authority shall be a qualifying authority for the purposes of this Schedule.
- (5) Before making an order under sub-paragraph (3) or (4), the Secretary of State shall consult—
 - (a) the nominated undertaker, and
 - (b) unless the authority concerned has requested him to make the order, that authority.
- (6) A statutory instrument containing an order under sub-paragraph (3) or (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In sub-paragraph (4), the reference to the relevant day is—
 - (a) in relation to an authority which has never been a qualifying authority for the purposes of this Schedule, to the day mentioned in sub-paragraph (1)(a), and

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- (b) in relation to an authority which has been a qualifying authority for the purposes of this Schedule, to the day on which it ceased, or last ceased, to be such an authority.
- (8) For the purposes of this paragraph, a local authority is a relevant local authority if it has functions under Part 2 or 3 in relation to giving of approval or would have such functions were it specified under sub-paragraph (1).

Transition

- 2 (1) An order under paragraph 1 may contain such transitional provision and savings as the Secretary of State thinks fit.
- (2) Without prejudice to the generality of sub-paragraph (1), provision under that sub-paragraph may include provision with respect to the effect, in a case where the nominated undertaker has obtained, or requested, approval under this Schedule, of the authority which granted the approval, or to which the request has been made, ceasing to be, or becoming, a qualifying authority for the purposes of this Schedule.
- (3) The Secretary of State may by agreement fetter the exercise of his discretion under sub-paragraph (1).

PART 2

DEVELOPMENT IN THE AREA OF A UNITARY AUTHORITY

Introductory

- 3 This Part has effect in relation to development in the area of a unitary authority.

Planning regimes

- 4 (1) The requirement set out in paragraph 5 shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a unitary authority which is not a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1), development is relevant development to the extent that it consists of or includes the erection, construction, alteration or extension of any building.
- (3) The requirements set out in paragraphs 6 to 10 shall be conditions of the deemed planning permission, so far as relating to development in the area of a unitary authority which is a qualifying authority for the purposes of this Schedule.
- (4) The requirements set out in paragraph 11 shall be conditions of the deemed planning permission, so far as relating to development in the area of any unitary authority.

Conditions: non-qualifying authority

- 5 (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the local planning authority at the request of the nominated undertaker.

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- (2) The local planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
- (3) Where the local planning authority exercises the power conferred by sub-paragraph (2), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the local planning authority may refuse to approve plans or specifications for the purposes of this paragraph is—
 - (a) that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits, or
 - (b) that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or local amenity and is reasonably capable of being so modified.

Conditions: qualifying authority

- 6 (1) To the extent that development consists of any operation or work mentioned in column (1) of the table in sub-paragraph (4), it shall be carried out in accordance with plans and specifications for the time being approved by the local planning authority at the request of the nominated undertaker.
- (2) The local planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (3) Where the local planning authority exercises the power conferred by sub-paragraph (2), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the local planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in column (1) of the following table is a ground specified in relation to it in column (2) of the table.

<i>(1)</i> <i>Operation or work</i>	<i>(2)</i> <i>Grounds</i>
1. <i>Construction works</i> <ol style="list-style-type: none">(a) The erection, construction, alteration or extension of any building (except for anything within (b) or (c) or item 2 or 4) or road vehicle park.(b) The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.(c) The erection, construction, alteration or extension of any fences, walls or other	That the design or external appearance of the works ought to be modified— <ol style="list-style-type: none">(a) to preserve the local environment or local amenity,(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or(c) to preserve a site of archaeological or historic interest or nature conservation value,

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(1) <i>Operation or work</i>	(2) <i>Grounds</i>
barriers (including bunds) for visual or noise screening or dust suppression.	and is reasonably capable of being so modified. That the development ought to, and could reasonably, be carried out elsewhere within the limits of the land on which the works of which it forms part may be carried out under this Act.
<i>2. Minor construction works</i> The erection, construction, alteration or extension of any transformers, telecommunications masts or pedestrian accesses to railway lines.	That the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified. That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.
<i>3. Fences and walls</i> The erection, construction, alteration or extension of any fences or walls (except for anything within item 1(c)).	That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.
<i>4. Artificial lighting</i> The erection, construction or installation of lighting equipment.	That the design of the equipment, with respect to the emission of light, ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified. That the development ought to, and could reasonably, be carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Act.
<i>5. Waste and spoil disposal</i> The disposal of waste or spoil.	That— (a) the design or external appearance of disposal sites on land within the relevant limits, (b) the methods by which such sites are worked, or (c) the noise, dust, vibration or screening arrangements during the operation of such sites, ought to be modified, and are reasonably capable of being modified. That— (a) to preserve the local environment or local amenity, (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or (c) to preserve a site of archaeological or historic interest or nature conservation value,

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(1) <i>Operation or work</i>	(2) <i>Grounds</i>
<p>6. <i>Borrow pits</i> The excavation of bulk materials from borrow pits.</p>	<p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p> <p>That—</p> <ul style="list-style-type: none"> (a) the design or external appearance of borrow pits on land within the relevant limits, (b) the methods by which such pits are worked, or (c) the noise, dust, vibration or screening arrangements during the operation of such pits, <p>ought to be modified, and are reasonably capable of being modified.</p> <p>That—</p> <ul style="list-style-type: none"> (a) to preserve the local environment or local amenity, (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or (c) to preserve a site of archaeological or historic interest or nature conservation value, <p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p>

- (5) In the case of items 1(b) and (c) and 4 in column (1) of the table in sub-paragraph (4), the second of the grounds specified in relation to the item in column (2) of the table does not apply in relation to development which forms part of a scheduled work.
- (6) In the case of items 5 and 6 in column (1) of the table in sub-paragraph (4), the second of the grounds specified in relation to it in column (2) of the table does not apply in relation to development which—
 - (a) is within the limits of deviation for the scheduled works, or
 - (b) consists of the use of land specified in columns (1) and (2) of Part 1 of Schedule 6 for a purpose specified in relation to the land in column (3) of that Part.
- (7) Any reference in column (1) of the table in sub-paragraph (4) to a description of works does not include works of that description of a temporary nature; and for this purpose, a building ancillary to a scheduled work is only to be regarded as being of a temporary nature if it is intended to remain in place for no longer than two years after the date on which the scheduled work is brought into general use.
- (8) Sub-paragraph (4) (as it has effect with sub-paragraphs (5) to (7)) shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.

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- 7 (1) Development shall be carried out in accordance with arrangements approved by the local planning authority at the request of the nominated undertaker with respect to the matters mentioned in column (1) of the table in sub-paragraph (2).
- (2) The only ground on which the local planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in column (1) of the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
 - (b) the ground specified in relation to the matter in column (2) of the table.

<i>(1)</i> <i>Matters</i>	<i>(2)</i> <i>Grounds</i>
<p>1. <i>Road transport</i> Routes by which anything is to be transported on a highway by large goods vehicle to a working or storage site, a site where it will be re-used or a waste disposal site.</p>	<p>That the arrangements ought to be modified—</p> <ol style="list-style-type: none"> (a) to preserve the local environment, local amenity or a site or archaeological or historic interest or nature conservation value, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, <p>and are reasonably capable of being so modified.</p>
<p>2. <i>Handling of re-useable spoil and top soil</i> Handling during removal, storage and re-use of any spoil or top soil removed during the course of carrying out the development.</p>	<p>That the arrangements ought to be modified to ensure that the spoil or top soil remains in good condition, and are reasonably capable of being so modified.</p>
<p>3. <i>Storage sites</i> Sites on land within the relevant limits at which—</p> <ol style="list-style-type: none"> (a) minerals, aggregates or other construction materials required for the development, or (b) spoil or top soil, <p>are to be stored until used or re-used in carrying out the development or disposed of as waste.</p>	<p>That the arrangements ought to be modified—</p> <ol style="list-style-type: none"> (a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, <p>and are reasonably capable of being so modified.</p>
<p>4. <i>Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.</p>	<p>As item 3.</p>

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<i>(1)</i> <i>Matters</i>	<i>(2)</i> <i>Grounds</i>
<p>5. <i>Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.</p>	As item 3.
<p>6. <i>Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.</p>	That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.
<p>7. <i>Suppression of dust</i> The suppression of dust caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.</p>	As item 6.
<p>8. <i>Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying out the development.</p>	That the arrangements ought to be modified— (a) to preserve the local environment or local amenity, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.

- (3) No arrangements for the purposes of sub-paragraph (1) shall be required—
- (a) in relation to transportation on a special road or trunk road, or
 - (b) in relation to transportation to a site where the number of large goods vehicle movements (whether to or from the site) does not on any day exceed 24.
- (4) In sub-paragraph (1), the reference to arrangements, in relation to item 6 in column (1) of the table in sub-paragraph (2), does not include detailed arrangements.
- (5) The local planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.
- 8 (1) To the extent that development consists of—
- (a) the disposal of waste or spoil, or
 - (b) the excavation of bulk materials from borrow pits,
- it shall not be begun unless the local planning authority has, at the request of the nominated undertaker, approved a scheme for the restoration of the land on which the development is to be carried out.
- (2) The only ground on which the local planning authority may refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph is that the scheme ought to be modified, and is reasonably capable of being modified.

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- (3) The nominated undertaker shall carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out development of a kind to which sub-paragraph (1) applies.
- (4) In sub-paragraph (1), the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.
- 9 (1) No work to which this paragraph applies shall be brought into use without the approval of the local planning authority.
- (2) The works to which this paragraph applies are—
- (a) any scheduled work, except for—
 - (i) a station, or
 - (ii) so much of any work constructed in a tunnel as is at least 9 metres below the surface of the land in which it is constructed, and
 - (b) any depot constructed, in exercise of the powers conferred by this Act, for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.
- (3) The local planning authority shall, at the request of the nominated undertaker, grant approval for the purposes of sub-paragraph (1) if—
- (a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or
 - (b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.
- (4) The local planning authority shall not refuse to approve, nor impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (3)(b) unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—
- (a) to preserve the local environment or local amenity,
 - (b) to preserve a site of archaeological or historic interest, or
 - (c) in the interests of nature conservation,
- and that the scheme is reasonably capable of being so modified.
- 10 Where the local planning authority approves a scheme for the purposes of paragraph 9(3)(b), the nominated undertaker shall be required—
- (a) to carry out the scheme, and
 - (b) to comply with any condition subject to which the scheme is approved.

Conditions: general

- 11 (1) Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, those operations shall be discontinued as soon as reasonably practicable after the completion of the relevant scheduled work or works.
- (2) The nominated undertaker shall, following discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the local planning authority.

- (3) If, in relation to a site used for carrying out operations ancillary to the construction of any of the scheduled works, no scheme has been agreed for the purposes of sub-paragraph (2) within 6 months of the completion of the relevant scheduled work or works, the scheme shall be such as the appropriate Ministers may determine after consultation with the nominated undertaker and the local planning authority.
- (4) Where, independently of any consultation under sub-paragraph (3), the appropriate Ministers ask the local planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (3), they may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
- (5) Sub-paragraph (2) shall not apply to a site to the extent that it consists of land to which a scheme under paragraph 8 applies.
- (6) Sub-paragraph (2) shall not apply where the site is one in relation to which the nominated undertaker is subject to an obligation under paragraph 2(1) of Schedule 5.
- (7) In this paragraph, references to the relevant scheduled work or works, in relation to any site, are to the scheduled work or works to which the operations carried out on that site were ancillary.

PART 3

DEVELOPMENT NOT IN THE AREA OF A UNITARY AUTHORITY

Introductory

- 12 This Part has effect in relation to development not in the area of a unitary authority.

Planning regimes: district councils

- 13 (1) The requirement set out in paragraph 14 shall be a condition of the deemed planning permission, so far as relating to relevant development in the area of a district council which is not a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1), development is relevant development to the extent that it consists of or includes the erection, construction, alteration or extension of any building.
- (3) The requirements set out in paragraphs 15 and 16 shall be conditions of the deemed planning permission, so far as relating to development, other than excepted development, in the area of a district council which is a qualifying authority for the purposes of this Schedule.
- (4) For the purposes of sub-paragraph (3), excepted development is development consisting of—
- (a) the disposal of waste or spoil, or
 - (b) the excavation of bulk materials from borrow pits.
- (5) The requirements set out in paragraphs 17 and 18 shall be conditions of the deemed planning permission, so far as relating to development in the area of a district council which is a qualifying authority for the purposes of this Schedule.

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- (6) The requirements set out in paragraph 19 shall be conditions of the deemed planning permission, so far as relating to development in the area of any district council.

District conditions: non-qualifying authority

- 14 (1) Development shall be carried out in accordance with plans and specifications for the time being approved by the district planning authority at the request of the nominated undertaker.
- (2) The district planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the development to be submitted for approval.
- (3) Where the district planning authority exercises the power conferred by sub-paragraph (2), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the district planning authority may refuse to approve plans or specifications for the purposes of this paragraph is—
- (a) that the development to which they relate ought to, and could reasonably, be carried out elsewhere on land within the relevant limits, or
 - (b) that the design or external appearance of any building to which they relate ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.

District conditions: qualifying authority

- 15 (1) To the extent that development consists of any operation or work mentioned in column (1) of the table in sub-paragraph (4), it shall be carried out in accordance with plans and specifications for the time being approved by the district planning authority at the request of the nominated undertaker.
- (2) The district planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (3) Where the district planning authority exercises the power conferred by sub-paragraph (2), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out shall, as regards the specified respect, include a plan or specification showing the additional details.
- (4) The only ground on which the district planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in column (1) of the following table is a ground specified in relation to it in column (2) of the table.

(1)	(2)
<i>Operation or work</i>	<i>Grounds</i>
1. <i>Construction works</i>	That the design or external appearance of the works ought to be modified—
(a) The erection, construction, alteration or extension of any building (except for	

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<i>(1)</i> <i>Operation or work</i>	<i>(2)</i> <i>Grounds</i>
<p>anything within (b) or (c) or item 2 or 4) or road vehicle park.</p> <p>(b) The construction, alteration or extension of any terracing, cuttings, embankments or other earth works.</p> <p>(c) The erection, construction, alteration or extension of any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.</p>	<p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the limits of the land on which the works of which it forms part may be carried out under this Act.</p>
<p><i>2. Minor construction works</i> The erection, construction, alteration or extension of any transformers, telecommunications masts or pedestrian accesses to railway lines.</p>	<p>That the design or external appearance of the works ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p><i>3. Fences and walls</i> The erection, construction, alteration or extension of any fences or walls (except for anything within item 1(c)).</p>	<p>That the development ought to, and could reasonably, be carried out on land elsewhere within the relevant limits.</p>
<p><i>4. Artificial lighting</i> The erection, construction or installation of lighting equipment.</p>	<p>That the design of the equipment, with respect to the emission of light, ought to be modified to preserve the local environment or local amenity, and is reasonably capable of being so modified.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Act.</p>

(5) In the case of items 1(b) and (c) and 4 in column (1) of the table in sub-paragraph (4), the second of the grounds specified in relation to the item in column (2) of the table does not apply in relation to development which forms part of a scheduled work.

(6) Any reference in column (1) of the table in sub-paragraph (4) to a description of works does not include works of that description of a temporary nature; and for this purpose, a building ancillary to a scheduled work is only to be regarded as being of a temporary nature if it is intended to remain in place for no longer than two years after the date on which the scheduled work is brought into general use.

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- (7) Sub-paragraph (4) (as it has effect with sub-paragraphs (5) and (6)) shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 16 (1) Development shall be carried out in accordance with arrangements approved by the district planning authority at the request of the nominated undertaker with respect to the matters mentioned in column (1) of the table in sub-paragraph (2).
- (2) The only ground on which the district planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in column (1) of the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
 - (b) the ground specified in relation to the matter in column (2) of the table.

<i>(1)</i> <i>Matters</i>	<i>(2)</i> <i>Grounds</i>
<p>1. <i>Storage sites</i> Sites on land within the relevant limits at which—</p> <ol style="list-style-type: none"> (a) minerals, aggregates or other construction materials required for the development, or (b) spoil or top soil, <p>are to be stored until used or re-used in carrying out the development or disposed of as waste.</p>	<p>That the arrangements ought to be modified—</p> <ol style="list-style-type: none"> (a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, <p>and are reasonably capable of being so modified.</p>
<p>2. <i>Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.</p>	<p>As item 1.</p>
<p>3. <i>Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.</p>	<p>As item 1.</p>
<p>4. <i>Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.</p>	<p>That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.</p>
<p>5. <i>Suppression of dust</i></p>	<p>As item 4.</p>

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(1) <i>Matters</i>	(2) <i>Grounds</i>
<p>The suppression of dust caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.</p> <p>6. <i>Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying out the development.</p>	<p>That the arrangements ought to be modified—</p> <p>(a) to preserve the local environment or local amenity, or</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area,</p> <p>and are reasonably capable of being so modified.</p>
<p>17 (1) No work to which this paragraph applies shall be brought into use without the approval of the district planning authority.</p> <p>(2) The works to which this paragraph applies are—</p> <p style="padding-left: 20px;">(a) any scheduled work, except for—</p> <p style="padding-left: 40px;">(i) a station, or</p> <p style="padding-left: 40px;">(ii) so much of any work constructed in a tunnel as is at least 9 metres below the surface of the land in which it is constructed, and</p> <p style="padding-left: 20px;">(b) any depot constructed, in exercise of the powers conferred by this Act, for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.</p> <p>(3) The district planning authority shall, at the request of the nominated undertaker, grant approval for the purposes of sub-paragraph (1) if—</p> <p style="padding-left: 20px;">(a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or</p> <p style="padding-left: 20px;">(b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.</p> <p>(4) The district planning authority shall not refuse to approve, nor impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (3)(b) unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—</p> <p style="padding-left: 20px;">(a) to preserve the local environment or local amenity,</p> <p style="padding-left: 20px;">(b) to preserve a site of archaeological or historic interest, or</p> <p style="padding-left: 20px;">(c) in the interests of nature conservation,</p>	

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and that the scheme is reasonably capable of being so modified.

- 18 Where the district planning authority approves a scheme for the purposes of paragraph 17(3)(b), the nominated undertaker shall be required—
- (a) to carry out the scheme, and
 - (b) to comply with any condition subject to which the scheme is approved.

District conditions: general

- 19 (1) Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, those operations shall be discontinued as soon as reasonably practicable after the completion of the relevant scheduled work or works.
- (2) The nominated undertaker shall, following discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the district planning authority.
- (3) If, in relation to a site used for carrying out operations ancillary to the construction of any of the scheduled works, no scheme has been agreed for the purposes of sub-paragraph (2) within 6 months of the completion of the relevant scheduled work or works, the scheme shall be such as the appropriate Ministers may determine after consultation with the nominated undertaker and the district planning authority.
- (4) Where, independently of any consultation under sub-paragraph (3), the appropriate Ministers ask the district planning authority for assistance in connection with the carrying out by them of their function under sub-paragraph (3), they may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
- (5) Sub-paragraph (2) shall not apply to a site to the extent that it consists of land to which a scheme under paragraph 23 applies.
- (6) Sub-paragraph (2) shall not apply where the site is one in relation to which the nominated undertaker is subject to an obligation under paragraph 2(1) of Schedule 5.
- (7) In this paragraph, references to the relevant scheduled work or works, in relation to any site, are to the scheduled work or works to which the operations carried out on that site were ancillary.

County conditions: qualifying authority

- 20 (1) The requirements set out in paragraphs 21 to 23 shall be conditions of the deemed planning permission, so far as relating to relevant development in the area of a county council which is a qualifying authority for the purposes of this Schedule.
- (2) For the purposes of sub-paragraph (1), relevant development is development consisting of—
- (a) the disposal of waste or spoil, or
 - (b) the excavation of bulk materials from borrow pits.
- (3) The requirement set out in paragraph 24 shall be a condition of the deemed planning permission, so far as relating to development in the area of a county council which is a qualifying authority for the purposes of this Schedule.

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- 21 (1) To the extent that development consists of any operation or work mentioned in column (1) of the table in sub-paragraph (4), it shall be carried out in accordance with plans and specifications for the time being approved by the county planning authority at the request of the nominated undertaker.
- (2) The county planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (3) Where the county planning authority exercises the power conferred by sub-paragraph (2), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out shall, as regards the specific respect, include a plan or specification showing the additional details.
- (4) The only ground on which the county planning authority may refuse to approve for the purposes of this paragraph plans or specifications of any operation or work mentioned in column (1) of the following table is a ground specified in relation to it in column (2) of the table.

<i>(1)</i> <i>Operation or work</i>	<i>(2)</i> <i>Grounds</i>
<p>1. <i>Waste and spoil disposal</i> The disposal of waste or spoil.</p>	<p>That—</p> <ul style="list-style-type: none"> (a) the design or external appearance of disposal sites on land within the relevant limits, (b) the methods by which such sites are worked, or (c) the noise, dust, vibration or screening arrangements during the operation of such sites, <p>ought to be modified, and are reasonably capable of being modified.</p> <p>That—</p> <ul style="list-style-type: none"> (a) to preserve the local environment or local amenity, (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or (c) to preserve a site of archaeological or historic interest or nature conservation value, <p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p>
<p>2. <i>Borrow pits</i> The excavation of bulk materials from borrow pits.</p>	<p>That—</p> <ul style="list-style-type: none"> (a) the design or external appearance of borrow pits on land within the relevant limits, (b) the methods by which such pits are worked, or

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<i>(1)</i> <i>Operation or work</i>	<i>(2)</i> <i>Grounds</i>
	<p>(c) the noise, dust, vibration or screening arrangements during the operation of such pits, ought to be modified, and are reasonably capable of being modified.</p> <p>That—</p> <p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>the development ought to be carried out on land elsewhere within the relevant limits, and is reasonably capable of being so carried out.</p>

- (5) In the case of each of the items in column (1) of the table in sub-paragraph (4), the second of the grounds specified in relation to the item in column (2) of the table does not apply in relation to development which—
- (a) is within the limits of deviation for the scheduled works, or
 - (b) consists of the use of land specified in columns (1) and (2) of Part 1 of Schedule 6 for a purpose specified in relation to the land in column (3) of that Part.
- (6) Sub-paragraph (4) (as it has effect with sub-paragraph (5)) shall apply in relation to the imposition of conditions on approval as it applies in relation to the refusal of approval.
- 22 (1) Development shall be carried out in accordance with arrangements approved by the county planning authority at the request of the nominated undertaker with respect to the matters mentioned in column (1) of the table in sub-paragraph (2).
- (2) The only ground on which the county planning authority may refuse to approve for the purposes of this paragraph arrangements with respect to a matter mentioned in column (1) of the following table is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
 - (b) the ground specified in relation to the matter in column (2) of the table.

<i>(1)</i> <i>Matters</i>	<i>(2)</i> <i>Grounds</i>
1. <i>Storage sites</i> Sites on land within the relevant limits at which—	<p>That the arrangements ought to be modified—</p> <p>(a) to preserve the local environment, local amenity or a site of</p>

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<i>(1)</i> <i>Matters</i>	<i>(2)</i> <i>Grounds</i>
<p>(a) minerals, aggregates or other construction materials required for the development, or (b) spoil or top soil, are to be stored until used or re-used in carrying out the development or disposed of as waste.</p> <p>2. <i>Construction camps</i> Sites on land within the relevant limits which are to be used for the residential accommodation of persons engaged in carrying out the development.</p> <p>3. <i>Screening</i> Provision where necessary on land within the relevant limits of any screening for working sites on such land required for the purpose of carrying out the development.</p> <p>4. <i>Artificial lighting</i> The use of artificial lighting on land within the relevant limits for the purpose of carrying out the development.</p> <p>5. <i>Suppression of dust</i> The suppression of dust caused by construction operations carried on on land within the relevant limits for the purpose of carrying out the development.</p> <p>6. <i>Mud on highway</i> Measures to be taken on land within the relevant limits to prevent mud being carried onto any public highway as a result of carrying out the development.</p>	<p>archaeological or historic interest or nature conservation value, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.</p> <p>As item 1.</p> <p>As item 1.</p> <p>That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.</p> <p>As item 4.</p> <p>That the arrangements ought to be modified— (a) to preserve the local environment or local amenity, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.</p>

(3) The county planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.

(4) In sub-paragraph (1), the reference to arrangements, in relation to item 4 in column (1) of the table in sub-paragraph (2), does not include detailed arrangements.

23 (1) To the extent that development consists of—

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- (a) the disposal of waste or spoil, or
- (b) the excavation of bulk materials from borrow pits,

it shall not be begun unless the county planning authority has, at the request of the nominated undertaker, approved a scheme for the restoration of the land on which the development is to be carried out.

- (2) The only ground on which the county planning authority may refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph is that the scheme ought to be modified and is reasonably capable of being modified.
 - (3) The nominated undertaker shall carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out development of a kind to which sub-paragraph (1) applies.
 - (4) In sub-paragraph (1), the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.
- 24 (1) Development shall be carried out in accordance with arrangements approved by the county planning authority at the request of the nominated undertaker with respect to the routes by which anything is to be transported on a highway by a large goods vehicle to—
- (a) a working or storage site,
 - (b) a site where it will be re-used, or
 - (c) a waste disposal site.
- (2) No arrangements for the purposes of sub-paragraph (1) shall be required—
- (a) in relation to transportation on a special road or trunk road, or
 - (b) in relation to transportation to a site where the number of large goods vehicle movements (whether to or from the site) does not on any day exceed 24.
- (3) The only ground on which the county planning authority may refuse to approve arrangements for the purposes of this paragraph is—
- (a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other permitted development which is to be carried out in the authority's area, or
 - (b) that the arrangements ought to be modified to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
- (4) The county planning authority may only impose conditions on approval for the purposes of this paragraph with the agreement of the nominated undertaker.

PART 4

SUPPLEMENTARY

Programming of requests for planning approvals

- 25 A planning authority shall not be required to entertain a request for approval under Part 2 or 3 unless—
- (a) the nominated undertaker has deposited with the authority a document setting out its proposed programme with respect to the making of requests under that Part to the authority, and
 - (b) the request is accompanied by a document explaining how the matters to which the request relates fit into the overall scheme of the works authorised by this Act.

Consultation

- 26 (1) Where a planning authority considers that a request for approval under Part 2 or 3 relates to matters which may affect—
- (a) nature conservation,
 - (b) the conservation of the natural beauty or amenity of the countryside, or
 - (c) a site or archaeological or historic interest,
- it shall within 5 days of receiving the request, invite the appropriate body or bodies to make representations.
- (2) Where under sub-paragraph (1) a planning authority has invited a body to make representations about a request for approval under Part 2 or 3, it shall not make any decision about the request until—
- (a) it has received representations from the body about the request,
 - (b) it has been informed by the body that it does not wish to make any representations, or
 - (c) 21 days have elapsed since the date of the invitation.
- (3) An invitation under sub-paragraph (1) shall specify the time limit for making representations.
- (4) For the purposes of this paragraph, the following are the appropriate bodies in relation to the following matters—

<i>Matter</i>	<i>Body</i>
Nature conservation.	Natural England.
Conservation of the natural beauty or amenity of the countryside.	Natural England.
Sites of archaeological or historic interest.	The Historic Buildings and Monuments Commission for England.

- 27 (1) Where a planning authority considers that a request for approval under Part 2 or 3 relates to matters which may affect—
- (a) the conservation of the natural beauty or amenity of inland or coastal waters or land associated with such waters,

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- (b) the conservation of flora or fauna which are dependent on an aquatic environment, or
 - (c) the use of such waters or land for recreational purposes,
- it shall within 5 days of receiving the request, invite the Environment Agency to make representations.
- (2) Where under sub-paragraph (1) above a planning authority has invited the Environment Agency to make representations about a request for approval under Part 2 or 3, it shall not make any decision about the request until—
- (a) it has received representations from the Agency about the request,
 - (b) it has been informed by the Agency that it does not wish to make any representations about the request, or
 - (c) 21 days have elapsed since the date of the invitation.
- (3) An invitation under sub-paragraph (1) shall specify the time limit for making representations.

Intervention by the Secretary of State

- 28 (1) The appropriate Ministers may by directions require a planning authority to refer any request for approval under Part 2 or 3 to them.
- (2) In determining a request referred to them under this paragraph, the appropriate Ministers shall have the same powers as the authority making the reference.
- (3) The determination by the appropriate Ministers of a request referred to them under this paragraph shall be final.
- (4) Directions under this paragraph may—
- (a) be given in relation to a specified request or requests of a specified description, and
 - (b) cancel or vary previous directions under this paragraph.
- 29 (1) The appropriate Ministers may by directions restrict a planning authority's powers in relation to the grant of approval under Part 2 or 3.
- (2) Directions under this paragraph may—
- (a) be given in relation to a specified approval or approvals of a specified description,
 - (b) be expressed to have effect without limit of time or during a specified period, and
 - (c) cancel or vary previous directions under this paragraph.

Appeals

- 30 (1) Where the nominated undertaker is aggrieved by a decision of a planning authority on a request for approval under Part 2 or 3 (including a decision under sub-paragraph (2) of paragraph 5, 6, 14, 15 or 21), it may appeal to the appropriate Ministers by giving notice of the appeal in the prescribed form to them and to the authority whose decision is appealed against within 42 days of notification of the decision.
- (2) On an appeal under this paragraph, the appropriate Ministers may allow or dismiss the appeal or vary the decision of the authority whose decision is appealed against,

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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 appropriate Ministers in accordance with directions under paragraph 28,

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), 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 be agreed upon in writing between the authority and the nominated undertaker.

(5) The appropriate Ministers may by regulations make provision for the extension of the appropriate period for the purposes of sub-paragraph (3) in connection with the payment of fees by means of cheque.

(6) An agreement under sub-paragraph (4) may be made after, as well as before, the end of the appropriate period.

(7) No agreement may be made under sub-paragraph (4) to extend a period after it has ended if the nominated undertaker has given notice of appeal against the refusal which is deemed under sub-paragraph (3) to have occurred because of the ending of the period.

(8) Where an agreement under sub-paragraph (4) to extend a period is made after the period has ended, sub-paragraph (3) shall be treated as not having applied when the period ended.

(9) In this paragraph, “prescribed” means prescribed by regulations made by the appropriate Ministers.

31 No appeal under section 78 of the Town and Country Planning Act 1990 (c. 8) (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 30.

32 (1) Unless the appropriate Ministers direct otherwise, their functions in relation to the determination of an appeal under paragraph 30 shall, instead of being carried out by them, be carried out by a person appointed by them for the purpose.

(2) The appropriate Ministers may by a further direction revoke a direction under sub-paragraph (1) at any time before the determination of the appeal.

(3) A direction under sub-paragraph (1) or (2) 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 appropriate Ministers may revoke his appointment and appoint another person to determine the appeal instead.

(5) Where the function of determining an appeal under paragraph 30 is transferred from one person to another, the person to whom the function is transferred shall consider

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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 appropriate Ministers determine an appeal which another person was previously appointed to determine, they may, in determining it, take into account any report made to them by that person.
- 33 The decision of the person appointed under paragraph 32, or, as the case may be, of the appropriate Ministers, on an appeal under paragraph 30 shall be final.
- 34 (1) An appeal under paragraph 30 shall be dealt with on the basis of written representations, unless the person deciding the appeal directs otherwise.
- (2) Subject to that, the appropriate Ministers may by regulations make such provision as they think fit about procedure in relation to appeals under paragraph 30.
- (3) Regulations under sub-paragraph (2) 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) may, in relation to such a time limit as is mentioned in sub-paragraph (3)(a)—
- (a) prescribe the time limit in regulations, or
 - (b) enable the appropriate Ministers to give directions setting the time limit in a particular case or class of case.
- 35 (1) Regulations under paragraph 30 or 34 may make different provision for different cases.
- (2) The power to make regulations under paragraph 30 or 34 shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modification of Schedule

- 36 (1) The Secretary of State may by order amend this Schedule as he thinks fit in consequence of provision made by an order under section 149 of the Local Government, Planning and Land Act 1980 (c. 65) (power to substitute an urban development corporation as the local planning authority) as applied by section 5 of the London Olympic and Paralympic Games Act 2006 (c. 12) (application in relation to the Olympic Delivery Authority).
- (2) The power to make an order under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

37 (1) In this Schedule—

“building” includes any structure other than—

- (a) anything in the nature of plant or machinery,
- (b) any gate, fence, wall or other means of enclosure, or
- (c) any tunnel, earthwork or railway track bed,

but does not include anything temporary or, except where forming part of a station and intended for use by members of the public without a ticket or other permission to travel, anything underground;

“deemed planning permission” means the permission deemed by section 10(1) to be granted;

“large goods vehicle” has the same meaning as in Part 4 of the Road Traffic Act 1988 (c. 52);

“permitted development” means development to which the deemed planning permission relates;

“railway vehicle” and “track” have the same meanings as in Part 1 of the Railways Act 1993 (c. 43);

“special road” and “trunk road” have the same meanings as in the Highways Act 1980 (c. 66).

- (2) In this Schedule, references to the appropriate Ministers are to the Secretary of State for Communities and Local Government and the Secretary of State for Transport and, in relation to the carrying out of any function, are to those Ministers acting jointly.
- (3) For the purposes of this Schedule, spoil or top soil is surplus if it is not used for the purposes of any of the works authorised by this Act.