

SCHEDULES

SCHEDULE 7

PLANNING CONDITIONS

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—

Status: This is the original version (as it was originally enacted).

<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,
 - (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, 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.

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- 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 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.

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- (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.