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STATUTORY INSTRUMENTS

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**2008 No. 2908**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Crossrail (Planning Appeals) (Written Representations Procedure) (England) Regulations 2008**

<i>Made</i>	- - - -	<i>10th November 2008</i>
<i>Laid before Parliament</i>		<i>10th November 2008</i>
<i>Coming into force</i>	- -	<i>1st December 2008</i>

The Secretary of State for Transport and the Secretary of State for Communities and Local Government, acting jointly in exercise of the powers conferred on them by paragraphs 30(1), 34 and 35(1) of Schedule 7 to the Crossrail Act 2008<sup>(1)</sup> make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Crossrail (Planning Appeals) (Written Representations Procedure) (England) Regulations 2008, and shall come into force on 1st December 2008.

**Interpretation and notices, etc.**

2.—(1) In these Regulations:

“the Act” means the Crossrail Act 2008, and “Schedule 7” means Schedule 7 to the Act;

“the appellant” means the nominated undertaker <sup>(2)</sup>

“approval” means approval under Part 2 or Part 3 of Schedule 7;

“authority” means relevant local authority for the purposes of paragraph 1 of Schedule 7;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means, but while in electronic form;

“in writing” includes electronic transmission in written form;

“request” means a request for approval under the planning permission deemed to be granted by section 10(1) of the Act;

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(1) [2008 c.18](#). See paragraph 30(9) of Schedule 7 for the definition of prescribed and paragraph 37(2) of Schedule 7 for the definition of appropriate Ministers.

(2) See [S.I. 2008/2036](#) for the identity of the nominated undertakers.

“starting date” means the date stated in the written notice under regulation 6(a), and

“third party” means any person who has been notified or consulted in accordance with Schedule 7 about a request, or has submitted representations to the authority about that request.

(2) Any notice, questionnaire, statement or representation submitted pursuant to these Regulations shall be in writing.

(3) Where—

(a) any notice of appeal is given under paragraph 30 of Schedule 7;

(b) any notice is served pursuant to regulation 7(1);

(c) any questionnaire or statement is submitted or copied pursuant to regulation 8; or

(d) any representations are submitted or copied pursuant to regulation 7, 9 or 10—

which makes reference to another document, a copy of that other document (or of the relevant part of it) shall be submitted served or copied (as the case may be) in a like manner and within the period specified for the submission, service or copying of the relevant document mentioned in subparagraph (a), (b), (c) or (d).

### **Application**

3. These Regulations shall apply to any appeal which is made under paragraph 30 Schedule 7, and which is not the subject of a direction made pursuant to paragraph 34(1) of that Schedule.

### **Service of Notices etc.**

4.—(1) Notices or representations required to be submitted or copied under any of the provisions of these Regulations may be sent—

(a) by post; or

(b) subject to paragraphs (2) to (5), by electronic transmission.

(2) Where a notice or representation required to be submitted or copied for the purposes of these Regulations is submitted or copied by electronic transmission the requirement shall be taken to be fulfilled where the recipient of the notice or representation to be transmitted, has given his consent in writing to the use of electronic transmission.

(3) Where the recipient of a notice or representation submitted or copied by electronic transmission notifies the sender within 7 days of receipt that he requires a paper copy of all or any part of that notice or representation, the sender shall provide such a copy as soon as is reasonably practicable.

(4) A person may revoke his consent to the use of electronic transmission in accordance with paragraph (5).

(5) Where a person is no longer willing to accept the use of electronic transmission for the purposes of these Regulations—

(a) he shall give notice in writing revoking any consent given by him for that purpose; and

(b) such revocation shall be final and shall take effect on the date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

### **Notice of appeal**

5.—(1) Notice of appeal under paragraph 30(1) of Schedule 7 shall be given to the appropriate Ministers and the authority in the form prescribed in Schedule 1(3).

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(3) See paragraph 30(1) of Schedule 7 for the period within which an appeal may be made.

### **Notice of receipt of appeal**

6. The appropriate Ministers shall, as soon as reasonably practicable after receipt of the notice of appeal, notify the appellant and the authority in writing of—

- (a) the date from which the process for deciding the appeal is to be taken to start;
- (b) the reference number allocated to the appeal
- (c) the address of the site to which the appeal relates; and
- (d) the address to which written communications to the appropriate Ministers about the appeal are to be sent.

### **Notice to, and representations by, third parties**

7.—(1) The authority shall, within a period of 7 days beginning with the starting date, serve notice on all third parties informing them of the appeal.

(2) A notice under paragraph (1) shall—

- (a) summarise the request to which the appeal relates, and the grounds of the appeal;
- (b) contain the information specified in regulation 6;
- (c) inform third parties that they may, within a period of 21 days beginning with the starting date, submit representations to the appropriate Ministers in respect of the appeal;
- (d) state that the appropriate Ministers will copy those representations to the appellant and to the authority;
- (e) state that copies of any representations already submitted to the authority about the request (other than representations which were not taken into account because the maker requested they be treated as confidential) will be sent by the authority to the appropriate Ministers and the appellant.

(3) Any representations submitted pursuant to paragraph (2)(c) and any copies of representations mentioned in paragraph (2)(e) shall be submitted to the appropriate Ministers within a period of 21 days beginning with the starting date.

(4) An authority submitting a copy of representations to the appropriate Ministers pursuant to paragraph (2)(e) shall at the same time send a copy to the appellant.

(5) The appropriate Ministers shall, on receipt of representations made pursuant to paragraph (2)(c), at the same time send a copy of them to the appellant and to the authority.

### **Submission of questionnaire and statement by the authority**

8.—(1) The authority shall, within a period of 14 days beginning with the starting date, submit to the appropriate Ministers a completed questionnaire in the form prescribed in Schedule 2.

(2) The authority shall at the same time send a copy of that questionnaire to the appellant.

(3) If the authority wishes to submit a statement in addition to the questionnaire mentioned in paragraph (1), it shall:

- (a) within a period of 14 days beginning with the starting date, serve notice on the appropriate Ministers and on the appellant of its intention to submit such a statement; and
- (b) within a period of 21 days beginning with the starting date, submit the statement to the appropriate Ministers, at the same time sending a copy of it to the appellant.

(4) The questionnaire referred to in paragraph (1) and the statement referred to in paragraph (3) shall state the date on which it is submitted to the appropriate Ministers.

### **Representations by the appellant and by the authority**

9.—(1) The appellant may submit to the appropriate Ministers representations in response to:

- (a) the authority's questionnaire copied to it pursuant to regulation 8(2); and
- (b) the authority's statement (if any) copied to it pursuant to regulation 8(3)(b).

(2) Representations pursuant to paragraph (1)(a) shall be sent within a period of 7 days beginning with the date of submission by the authority of the copy of the authority's questionnaire, and those pursuant to paragraph (1)(b) within a period of 7 days beginning with the date of submission by the authority of the copy of the authority's statement.

(3) Any representations submitted pursuant to paragraph (1) shall be dated and submitted to the appropriate Ministers on the date they bear, and the appellant shall at the same time send a copy of them to the authority.

(4) The appellant and the authority may submit to the appropriate Ministers representations in response to any third party representations submitted to those Ministers pursuant to regulation 7(2)(c).

(5) Representations pursuant to paragraph (4) shall be submitted within 7 days of receipt of any third party representations.

### **Closing representations in respect of new matters**

10. Where the appellant submits representations pursuant to regulation 9(1), and those representations raise a new matter, the authority may, within a period of 14 days beginning with the date of the appellant's submission of a copy of those representations pursuant to regulation 9(3), submit to the appropriate Ministers representations in respect of that new matter, copying them at the same time to the appellant.

### **Allowing further time**

11. The appropriate Ministers may in a particular case give directions setting later time limits than those prescribed by these Regulations.

### **Power of determiner**

12.—(1) In this regulation—

“representations” includes any questionnaire or statement submitted or to be submitted by the appellant or authority pursuant to these Regulations; and

“the determiner” means the appropriate Ministers or the person appointed to determine the appeal pursuant to paragraph 32 of Schedule 7, as the case may be.

(2) The determiner may, at any time after the expiry of:

- (a) a period of 7 days beginning either with the date the authority sent the appellant a copy of its questionnaire or, where the authority submits a statement pursuant to regulation 8(3), the date the authority sent the appellant a copy of that statement; or
- (b) where applicable, the period of 14 days mentioned in regulation 10—

whichever is the later proceed to a decision, taking into account only those representations and supporting documents as were submitted before the expiry of the relevant period.

(3) Where no representations are submitted within the period mentioned in regulation 7(2)(c), the determiner may proceed to a decision if:

- (a) it appears to the determiner that sufficient material has been submitted to enable the determiner to reach a decision on the merits of the case; and

- (b) notice has been given by the determiner to the appellant and to the authority of the determiner's intention to proceed to a decision notwithstanding that no representations have been submitted within that period.

Signed by authority of the Secretary of State for Transport

10th November 2008

*Andrew Adonis*  
Minister of State  
Department for Transport

Signed by authority of the Secretary of State for Communities and Local Government

10th November 2008

*Kay Andrews*  
Parliamentary Undersecretary of State  
Department of Communities and Local  
Government

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## SCHEDULE 1

Regulation 5

## Notice of Appeal

THE PLANNING INSPECTORATE

FOR THE PLANNING INSPECTORATE

USE ONLY

Date Received:

CROSSRAIL ACT 2008

## SCHEDULE 7 APPEAL TO THE APPROPRIATE MINISTERS

Please complete this form clearly and send one copy to The Planning Inspectorate and one copy to the local authority

<b>A. APPELLANT DETAILS</b>	
Full Name(s) _____	
Address _____	
Daytime Telephone Number _____	Postcode _____
Email address: _____	Your Reference _____
Fax Number _____	
Inclusion of an email address and/or a fax number shall be taken as consent by the appellant to the receipt of electronic transmissions at the address or number.	
<b>B. AGENT DETAILS (if any)</b>	
Name _____	
Address _____	
Daytime Telephone Number _____	Postcode _____
Email address: _____	Your Reference _____
Fax Number _____	
<b>C. LOCAL AUTHORITY (LA) DETAILS</b>	
Name of the LA _____	
LA's application reference no _____	
Date of the planning application _____	
Date of LA's decision notice (if issued) or deemed decision _____	
<b>D. SITE ADDRESS</b>	
Site Address _____	
Postcode _____	

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#### **E. DESCRIPTION OF THE DEVELOPMENT**

Description of the work, for which approval is sought:

Relevant paragraph of Schedule 7 to the Crossrail Act 2008 under which approval is sought:

#### **F. OTHER INFORMATION**

<p>1. Are there any other requests for consent under Schedule 7 to the Act relating to the same sites either currently being considered by or about to be put before the LA? If YES, please describe briefly:</p>	<div>Y</div>	<div>N</div>
<p>2. Are there any applications for planning permission under the Town and Country Planning Act 1990 relating to the same site either currently being considered by or about to be put before the LA? If YES, please describe briefly:</p>	<div>Y</div>	<div>N</div>

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3. Can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land?	Y	N
4. Is it essential for the Inspector to enter the site to assess the impact of the proposal? If YES, please explain briefly:	Y	N
5. Are there any known health and safety issues that would affect the conduct of the site inspection? If YES, please describe briefly:	Y	N

#### G. ESSENTIAL SUPPORTING DOCUMENTS

You must enclose a copy of each of the following with the appeal form. If documentation is missing your appeal may be seriously delayed.

*Please tick box to confirm documentation is included with the appeal form.*

<input type="checkbox"/>	<ul style="list-style-type: none"> <li>The request for approval submitted to the LA;</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>A list and copies of all plans, sections, specifications, particulars, drawings and documents sent to the LA as part of the request for approval they considered;</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>The LA's decision (if any), including the planning officer's report to committee or delegated report on the application and any other relevant documents/minutes, and all representations held by the appellant and received from interested parties about the original applications (if any);</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>A plan showing the site outlined in red, including two roads clearly named (preferably on a copy of a 1:10,000 Ordnance Survey map).</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>The matters which you want to Inspector to note at the site visit;</li> </ul>
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>Any other plans, drawings and documents sent to the LA but which did not form part of the request for approval (e.g. drawings for illustrative purposes);</li> </ul>



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<input type="checkbox"/>	<ul style="list-style-type: none"><li>Any additional plans or drawings relating to the request for approval but not previously seen by the LA. Number them clearly and note the numbers here:</li></ul>
<p><b>H. Grounds of appeal</b> This must be a clear and concise statement of your full case. Please continue on a separate sheet if necessary.</p>	
<p>*I/We confirm that I/we have enclosed a copy of each of the supporting documents indicated above and that I/we have clearly marked the relevant plans. I/We also certify that I/we have sent a copy of this appeal form and any supporting documents which were not seen as part of the request for approval to the LA.</p> <p>Signed _____ (on behalf of _____)</p> <p>Name (in block letters) _____ Date _____</p> <p>*Strike out the items that do not apply in your case.</p> <p>The Planning Inspectorate is registered under the Data Protection Act, so that we may hold information supplied by you on our computer system for the purpose of processing this appeal. The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of their registration (Reg No: E311018) under the Data Protection Act 1998. Further information about the Inspectorate's Data Protection policy can be found on their website under "Privacy Statement".</p>	

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## SCHEDULE 2

Regulation 8

### Appeal Questionnaire

#### LOCAL AUTHORITY PLANNING QUESTIONNAIRE

#### CROSSRAIL ACT 2008

#### APPEAL/CALL-IN OF REQUEST FOR APPROVAL UNDER SCHEDULE 7

BY \_\_\_\_\_ GRID  
REF \_\_\_\_\_

SITE \_\_\_\_\_

In the event of an appeal under paragraph 30 of Schedule 7 please complete this questionnaire and send copies together with any enclosure to The Planning Inspectorate and the nominated undertaker within a period of 14 days beginning with the date notified as the starting date of the appeal.

##### A. APPEAL QUESTIONS

1. Can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land? YES/NO
2. Is it essential for the Inspector to enter the site to assess the impact of the proposal? YES/NO  
If YES please explain
3. Are there any known health and safety issues that would affect the conduct of the site inspection? YES/NO
4. Does the appeal/call-in relate to a request for approval under the provisions of Schedule 7 to the Crossrail Act 2008 pertaining to:
  - a) A qualifying authority? YES/NO
  - b) A non-qualifying authority? YES/NO

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5. Does the appeal/call-in relate to a request for approval of:
- a) Detailed plans and specifications? YES/NO
  - b) A scheme of construction arrangements? YES/NO
  - c) A mitigation scheme? YES/NO
  - d) Site restoration? YES/NO
- Please list below any additional requests for approval under paragraph 8, 11, 17 and 23 of Schedule 7 to the Crossrail Act 2008
6. Is there a known surface or underground mineral interest at or near (within 400 meters of) the site which is likely to be a material consideration in determining the appeal/call-in?  
If YES, clearly label and attach details to this form YES/NO
7. Does the development directly affect the line of a footpath, bridleway or highway?  
If YES, Please state reference numbers here: YES/NO
8. Are there any other Crossrail appeals/requests for approval relating to the same site or neighbourhood which have still to be determined?  
If YES, Please state reference numbers here: YES/NO
9. Have there been any Crossrail appeals determined or requests for approval refused but not appealed against relating to the same site?  
If YES, Please state reference numbers here: YES/NO

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10. Is the appeal site within:
- a) A Green Belt? YES/NO
- b) An Area of Outstanding Natural Beauty? YES/NO
11. Is the site in a Conservation Area? YES/NO  
If YES, clearly label and attach a plan of the Conservation Area to this form.
12. a) Does the proposed development involve the demolition, alteration or extension of a listed building? YES/NO  
If YES, is it a:  
Grade I YES/NO  
Grade II\* YES/NO  
Grade II YES/NO  
Date of listing \_\_\_\_\_
- Include here a description of the relation to the proposed development of the appropriate Crossrail Heritage Deed (please note that, under the relevant heritage deeds entered into by the nominated undertaker, there is a separate procedure for handling heritage disputes).
- b) Would the proposed development affect the setting of a listed building? YES/NO  
If YES, clearly label and attach a copy of the relevant listing description to this form.
- Would the proposed development affect an ancient monument (please note that, under the scheduled monument agreement entered into by the nominated undertaker where it relates to one of the scheduled monuments in the City of London, there is a separate procedure for handling disputes)? YES/NO
- If YES, was English Heritage consulted? Clearly label and attach a copy of any comments to this form.

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13. Is any part of the site subject to a Tree Preservation Order?  
If YES, clearly label and attach a plan showing the extent of the Order and any relevant details to this form. YES/NO
14. a) Is the appeal site in or adjacent to or likely to affect an SSSI and/or an Internationally designated site (i.e. cSAC, SAC, pSPA, SPA, Ramsar)?  
If YES, clearly label and attach the comment of Natural England to this form YES/NO
- b) Are there any protected species likely to be affected by the proposals?  
If YES, clearly label and attach details to this form. YES/NO

#### B. APPEAL DOCUMENTATION

1.	Copies of the following documents must, if appropriate, be enclosed with this questionnaire.	The number of documents	Not applicable
a)	Any direction made by the appropriate Ministers, apart from those made under Schedule 7, relevant to the appeal/call-in;	<input type="text"/>	<input type="text"/>
b)	Any comments from other Government Departments or statutory agencies/undertakers;	<input type="text"/>	<input type="text"/>
c)	Any representations received as a result of notification of the request for approval under Schedule 7;	<input type="text"/>	<input type="text"/>
d)	Details of any other requests/applications or matters currently before the Council relating to the same site;	<input type="text"/>	<input type="text"/>
e)	In the case of appeals against non-determination, details of considerations likely to have been relevant to the Council's decision;	<input type="text"/>	<input type="text"/>
f)	Extracts from any relevant statutory development plan policies (even if you intend to rely more heavily on the emerging plan). You must include the front page, the title and date of approval/adoption, please give the status of the plan. Copies of the policies should include the relevant supporting text. You must provide this even if the appeal is against non-determination. Clearly label and list the policies below:	<input type="text"/>	<input type="text"/>

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g)	Extracts from any supplementary planning guidance, that you consider necessary, together with its status, whether it was the subject of public consultation and consequent modification, whether it was formally adopted and if so, when;	<input type="text"/>	
h)	Extracts from any supplementary planning document that you consider necessary, together with the date of its adoption. In the case of emerging documents, please state what stage they have reached;	<input type="text"/>	<input type="text"/>
i)	A list of conditions which are considered to be imposed if permission is granted or that are permitted to be imposed on approval with the agreement of the nominated undertaker under paragraphs 7(5), 16(3), 22(3) and 24(4) of Schedule 7 to the Crossrail Act 2008;	<input type="text"/>	<input type="text"/>
j)	Any other relevant information or correspondence the council consider the Inspectorate should be aware of;	<input type="text"/>	<input type="text"/>
k)	A copy of the letter with which you notified people about the appeal (if any), together with a list of the people you notified.	<input type="text"/>	<input type="text"/>
l)	Representation from interested parties about the request for approval;	<input type="text"/>	<input type="text"/>
m)	The Planning Officer's report to committee (if any)	<input type="text"/>	<input type="text"/>
n)	Any relevant committee minute; and	<input type="text"/>	<input type="text"/>

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- o) Extracts from any relevant plans and policies and explanations for these. Each extract should include the front page, showing the title of the plan and date of approval or adoption. Where plans and policies have not been adopted, the stage and status of the plan should be given.

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2. Do the documents listed above comprise the Council's statement of case? YES/NO
- If NOT, then the statement of case should be submitted within a period of 21 days beginning with the date notified as the starting date of the appeal.

### C. AUTHORITY DETAILS

Name \_\_\_\_\_ of \_\_\_\_\_ Council \_\_\_\_\_

\_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Daytime \_\_\_\_\_ Telephone \_\_\_\_\_

Number \_\_\_\_\_

Email \_\_\_\_\_

address: \_\_\_\_\_

\_\_\_\_\_

Fax \_\_\_\_\_

Number \_\_\_\_\_

Inclusion of an email address and/or a fax number shall be taken as consent by the authority to the receipt of electronic transmissions at the address or number.

Council's reference

I Certify that a copy of this questionnaire and any enclosures have on this same day been sent to the nominated undertaker

Signature \_\_\_\_\_ on behalf of \_\_\_\_\_ Council

Date of Dispatch



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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Crossrail Act 2008 makes provision for the nominated undertaker or nominated undertakers to make requests for planning approval to relevant local authorities. Schedule 7 to the Act provides that the nominated undertaker or nominated undertakers may appeal to the Secretary of State for Transport and the Secretary of State for Communities and Local Government in certain circumstances against the decision of such an authority.

These Regulations prescribe the form of the notice of appeal (*regulation 5*) and a form of questionnaire to be completed by the authority (*regulation 8*).

The Regulations also provide for notice of the appeal to be served on the authority and on relevant third parties (*regulations 6 and 7* respectively), and specify time limits for the submission of representations and any supporting documentation (*regulations 7 to 10*). *Regulation 11* allows the Secretaries of State to grant additional time for the submitting of representations. *Regulation 12* provides for determination of the appeal to proceed taking account of only material submitted within the relevant time limit, and also enables determination to proceed in the absence of representations where that time limit has expired.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.