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STATUTORY INSTRUMENTS

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**2011 No. 1824**

The Town and Country Planning (Environmental  
Impact Assessment) Regulations 2011

PART 3

Procedures Concerning Applications for Planning Permission

**Applications which appear to require screening opinion**

7. Where it appears to the relevant planning authority that—
- (a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application; and
  - (b) the development in question has not been the subject of a screening opinion or screening direction; and
  - (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (4) and (5) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

**Subsequent applications where environmental information previously provided**

- 8.—(1) This regulation applies where it appears to the relevant planning authority that—
- (a) an application which is before them for determination—
    - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
    - (ii) has not itself been the subject of a screening opinion or screening direction; and
    - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
  - (b) either—
    - (i) the original application was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; or
    - (ii) the application is for the approval of a matter where the approval is required by or under a condition to which planning permission deemed by section 10(1) of the Crossrail Act 2008(1) is subject.

(2) Where it appears to the relevant planning authority that the environmental information already before them is adequate to assess the environmental effects of the development, they shall take that information into consideration in their decision for subsequent consent.

(3) Where it appears to the relevant planning authority that the environmental information already before them is not adequate to assess the environmental effects of the development, they shall serve a notice seeking further information in accordance with regulation 22(1).

### **Subsequent applications where environmental information not previously provided**

9. Where it appears to the relevant planning authority that—
- (a) an application which is before them for determination—
    - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
    - (ii) has not itself been the subject of a screening opinion or screening direction; and
    - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these regulations; and
  - (b) the original application was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (4) and (5) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

### **Application made to a local planning authority without an environmental statement**

10.—(1) Where an EIA application which is before a local planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the authority shall notify the applicant in writing that the submission of an environmental statement is required.

(2) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the relevant planning authority shall notify the applicant of any such person.

(3) An authority shall notify the applicant in accordance with paragraph (1) within 3 weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Secretary of State, after the expiry of that period of 3 weeks or of any longer period so agreed, makes a screening direction to the effect that the development is EIA development, the authority shall so notify the applicant within 7 days beginning with the date the authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (1) may, within 3 weeks beginning with the date of the notification, write to the authority stating—

- (a) that the applicant accepts their view and is providing an environmental statement; or
- (b) unless the condition referred to in paragraph (5) is satisfied, that the applicant is writing to the Secretary of State to request a screening direction.

(5) For the purpose of paragraph (4)(b) the condition is—

- (a) if the application referred to in paragraph (1) is an application for planning permission, that the Secretary of State has made a screening direction in respect of the development;
- (b) if the application referred to in paragraph (1) is a subsequent application, that the Secretary of State has made a screening direction subsequent to that application in respect of the development.

(6) If the applicant does not write to the authority in accordance with paragraph (4), the permission or subsequent consent sought shall, unless the condition referred to in paragraph (7) is satisfied, be deemed to be refused at the end of the relevant 3 week period, and the deemed refusal—

- (a) shall be treated as a decision of the authority for the purposes of article 36(4)(c) (register of applications) of the Order; but
  - (b) shall not give rise to an appeal to the Secretary of State by virtue of section 78 (right to appeal against planning decisions and failure to take such decisions).
- (7) For the purpose of paragraph (6) the condition is—
- (a) if the application referred to in paragraph (1) is an application for planning permission, that the Secretary of State has made a screening direction to the effect that the development is not EIA development;
  - (b) if the application referred to in paragraph (1) is a subsequent application, that the Secretary of State has made a screening direction subsequent to that application, to the effect that the development is not EIA development.
- (8) An authority which has given a notification in accordance with paragraph (1) shall, unless the Secretary of State makes a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 17(6).
- (9) A person who requests a screening direction pursuant to paragraph (4)(b) shall send to the Secretary of State with the request copies of—
- (a) the application;
  - (b) all documents sent to the authority as part of the application;
  - (c) all correspondence between the applicant and the authority relating to the proposed development;
  - (d) a copy of any planning permission granted for the development; and
  - (e) in the case of a subsequent application, documents or information relating to the planning permission granted for the development that are relevant to the application,
- and paragraphs (2) to (5) of regulation 6 shall apply to a request under this regulation as they apply to a request made pursuant to regulation 5(7).

#### **Application referred to the Secretary of State without an environmental statement**

**11.**—(1) Where an application has been referred to the Secretary of State for determination, and it appears to the Secretary of State that—

- (a) it is an EIA application; and
- (b) the development in question—
  - (i) has not been the subject of a screening opinion or screening direction; or
  - (ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the referral of the application were a request made by the applicant pursuant to regulation 5(7).

(2) Where an application has been referred to the Secretary of State for determination, and it appears to the Secretary of State that—

- (a) it is an EIA application, and

- (b) it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the Secretary of State shall notify the applicant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(3) The Secretary of State shall notify the applicant in accordance with paragraph (2) within 3 weeks beginning with the date the application was received or such longer period as may be reasonably required.

(4) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State shall notify the applicant of any such person.

(5) An applicant who receives a notification under paragraph (2) may, within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(6) If the applicant does not write in accordance with paragraph (5), the Secretary of State shall be under no duty to deal with the application; and at the end of the 3 week period shall inform the applicant in writing that no further action is being taken on the application.

(7) Where—

- (a) a notification has been given under paragraph (2), and  
 (b) the applicant does not submit an environmental statement and comply with regulation 17(6),

the Secretary of State shall determine the relevant application only by refusing planning permission or subsequent consent.

### **Appeal to the Secretary of State without an environmental statement**

**12.**—(1) Where on consideration of an appeal under section 78 (right to appeal against planning decisions and failure to take such decisions) it appears to the Secretary of State that—

- (a) the relevant application is an EIA application; and  
 (b) the development in question —  
     (i) has not been the subject of a screening opinion or screening direction; or  
     (ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and  
 (c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the appeal were a request made by the appellant pursuant to regulation 5(7).

(2) Where an inspector is dealing with an appeal and a question arises as to whether the relevant application is an EIA application and it appears to the inspector that it may be such an application, the inspector shall refer that question to the Secretary of State and shall not determine the appeal, except by refusing planning permission or subsequent consent, before a screening direction is made.

(3) Paragraphs (3) and (4) of regulation 6 shall apply to a question referred under paragraph (2) as if the referral of that question were a request made by the appellant pursuant to regulation 5(7).

(4) Where it appears to the Secretary of State that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, the Secretary of State shall notify the appellant in writing that

the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(5) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State shall notify the appellant of any such person.

(6) An appellant who receives a notification under paragraph (4), may within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(7) If the appellant does not write in accordance with paragraph (6), the Secretary of State or, where relevant, the inspector, shall be under no duty to deal with the appeal; and at the end of the 3 week period shall inform the appellant that no further action is being taken on the appeal.

(8) Where—

(a) a notification has been given under paragraph (4), and

(b) the appellant does not submit an environmental statement and comply with regulation 17(6),

the Secretary of State or, where relevant, the inspector shall determine the appeal only by refusing planning permission or subsequent consent.