
STATUTORY INSTRUMENTS

2011 No. 1824

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

PART 9

Unauthorised Development

Appeal to the Secretary of State without a screening opinion or screening direction

35.—(1) Where on consideration of an appeal under section 174 it appears to the Secretary of State that the matters which are alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, the Secretary of State shall, before any notice is served pursuant to regulation 36, make a screening direction.

(2) Where an inspector is dealing with an appeal under section 174 and a question arises as to whether the matters which are alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, the inspector shall refer that question to the Secretary of State.

(3) Before receiving a screening direction the inspector shall not determine the application which is deemed to have been made by virtue of the appeal under section 174 (“the deemed application”) except to refuse that application.

(4) Where a question is referred under paragraph (2), the Secretary of State shall make a screening direction within 3 weeks beginning with the date on which the question was referred or such longer period as may be reasonably required.

(5) The Secretary of State shall send a copy of any screening direction made pursuant to paragraph (4) to the inspector.

(6) If the Secretary of State considers that sufficient information to make a screening direction has not been provided, the Secretary of State shall give notice in writing to the applicant and the authority by whom the regulation 32 notice was served of the matters in respect of which additional information is required; and the information so requested shall be provided by the applicant within such reasonable period as may be specified in the notice.

(7) If an appellant to whom notice has been given under paragraph (6) fails to comply with the requirements of that notice—

- (a) the application which is deemed to have been made by virtue of the appeal made under section 174; and
- (b) the appeal in so far as it is brought under the ground mentioned in section 174(2)(a) (“the ground (a) appeal”),

shall lapse at the end of the period specified in the notice.