

SCHEDULE 3

Regulation 33

Environmental Impact Assessments

1. In this Schedule—

“EIA development” means development which satisfies the definition of “Schedule 2 development” in regulation 2(1) of the EIA Regulations; and

“environmental information” has the meaning given in regulation 2(1) of the EIA Regulations.

2. Where the development described in an order proposal is EIA development, the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—

Having regard to all material considerations, it is appropriate that the neighbourhood development order is made.

Amendments to the EIA Regulations

3. The EIA Regulations are amended in accordance with the following paragraphs.

4. In regulation 2(1) (interpretation)—

(a) before the definition of “the Order”, insert—

““neighbourhood development order” means a neighbourhood development order made pursuant to section 61E;(1)

(b) before the definition of “principal council”, insert—

““order proposal” means a proposal for the making of a neighbourhood development order by a qualifying body under paragraph 1 of Schedule 4B to the Act;”; and

(c) before the definition of “register”, insert—

““qualifying body” has the meaning given by section 61E(6);”.

5. In regulation 25(b) (modifications where application by a local planning authority) for “regulations 7 and 8” substitute “regulation 7”.

6. After regulation 29 (local development orders) insert—

“Neighbourhood development orders

29A.—(1) This regulation applies to Schedule 2 development for which an order proposal is submitted under paragraph 1 of Schedule 4B to the Act.

(2) Paragraphs (3) and (4) apply where—

(a) the local planning authority adopt a screening opinion; or

(b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the development is Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

(3) No referendum may be held under paragraph 12(4) of Schedule 4B to the Act on the making of a neighbourhood development order which would grant planning permission for Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location unless—

(a) an environmental statement has been prepared in relation to that development;

(1) Section 61E of the Town and Country Planning Act 1990 was inserted by paragraph 2 of Schedule 9 to the Localism Act 2011.

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- (b) the local planning authority are satisfied that the basic condition prescribed by paragraph 2 of Schedule 3 to the Neighbourhood Planning (General) Regulations 2012 is met; and
 - (c) the local planning authority have first taken the environmental information into consideration, and have stated in their decision that they have done so.
- (4) In a case to which this regulation applies these Regulations have effect subject to the following modifications—
- (a) regulation 3 shall not apply;
 - (b) in regulation 4—
 - (i) for sub-paragraph (2)(a), substitute—
 - “(a) the submission by a qualifying body in relation to that development of a statement referred to by the qualifying body as an environmental statement for the purposes of these Regulations; or”; and
 - (ii) in sub-paragraph (7)(b), for “person” substitute “qualifying body”.
 - (c) in regulation 5—
 - (i) for paragraph (1), substitute—
 - “(1) A qualifying body which is minded to submit an order proposal may request the relevant local planning authority to adopt a screening opinion.”;
 - (ii) in paragraph (2)—
 - (aa) for “in relation to an application for planning permission” substitute “by a qualifying body”; and
 - (bb) for “person” substitute “qualifying body”;
 - (iii) paragraph (3) shall not apply; and
 - (iv) in paragraphs (4) to (8) for each reference to “person” substitute “qualifying body”;
 - (d) in regulation 6 for each reference to “person” substitute “qualifying body”;
 - (e) in regulation 7—
 - (i) for paragraph (a) substitute—
 - “(a) an order proposal which has been submitted to them under paragraph 1 of Schedule 4B to the Act relates to Schedule 2 development; and”;
 - (ii) in paragraph (c)—
 - (aa) for “application” substitute “order proposal”; and
 - (bb) for “applicant” substitute “qualifying body”; and
 - (iii) for “or lodging of the application” substitute “of the order proposal”;
 - (f) regulations 8 and 9 shall not apply;
 - (g) in regulation 10—
 - (i) for paragraph (1) substitute—
 - “(1) Where—
 - (a) a qualifying body submits an order proposal which is not accompanied by a statement referred to by the qualifying body as

an environmental statement for the purposes of these Regulations;
and

- (b) the relevant planning authority is of the view that the development is Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location,

the authority shall notify the qualifying body in writing that the submission of an environmental statement is required.”;

- (ii) in paragraph (2)—

- (aa) for “application” substitute “order proposal”; and
- (bb) for “applicant” substitute “qualifying body”;

- (iii) in paragraph (3)—

- (aa) for each reference to “applicant” substitute “qualifying body”; and
- (bb) for “application” substitute “order proposal”;

- (iv) for paragraphs (4) to (7) substitute—

“(4) A qualifying body receiving a notification pursuant to paragraph (1) may, within 3 weeks beginning with the date of the notification, write to the relevant planning authority stating—

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

(5) For the purpose of paragraph (4)(b) the condition is that the Secretary of State has made a screening direction in respect of the development.

(6) If the qualifying body does not write to the authority in accordance with paragraph (4), unless the condition referred to in paragraph (7) is satisfied, at the end of the 3 week period the relevant planning authority must decline to consider the order proposal.

(7) For the purpose of paragraph (6) the condition is that the Secretary of State has made a screening direction to the effect that the development is not EIA development.”;

- (v) in paragraph (8) for “determine the relevant application only by refusing planning permission or subsequent consent” substitute “decline to consider the order proposal”; and

- (vi) in paragraph (9)—

- (aa) for “person” substitute “qualifying body”;
- (bb) for “applicant” substitute “qualifying body”;
- (cc) for each reference to “application” substitute “order proposal”;
- (dd) sub-paragraphs (d) and (e) shall not apply;

- (h) regulations 11 and 12 shall not apply;

- (i) in regulation 13—

- (i) for paragraphs (1) and (2) substitute—

“**13.**—(1) A qualifying body which is minded to submit an order proposal in respect of Schedule 2 development likely to have

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significant effects on the environment by virtue of factors such as its size, nature or location may ask the relevant planning authority to state in writing their opinion as to the information to be provided in the environmental statement (“a scoping opinion”).

(2) A request under paragraph (1) shall include—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
- (c) such other information or representations as the qualifying body may wish to provide or make.”;

(ii) for each reference to “person” substitute “qualifying body”; and

(iii) for paragraph (9) substitute—

“(9) An authority which have adopted a scoping opinion in response to a request under paragraph (1) shall not be precluded from requiring additional information from the qualifying body in connection with any statement that may be submitted as an environmental statement in connection with any order proposal that relates to the same development as was referred to in the request.”;

(j) in regulation 14—

(i) for each reference to “person” substitute “qualifying body”; and

(ii) for paragraph (6) substitute—

“(6) Neither the Secretary of State who has made a scoping direction in response to a request under paragraph (1) nor the relevant planning authority shall be precluded from requiring additional information from the qualifying body in connection with any statement that may be submitted as an environmental statement in connection with any order proposal that relates to the same development as was referred to in the request.”;

(k) in regulation 15—

(i) for each reference to “person” substitute “qualifying body”; and

(ii) in paragraph (3), omit “or 11(5) or 12(6)”;

(l) in regulation 16—

(i) in paragraph (1) for “An applicant who makes an EIA application” substitute “A qualifying body which makes an order proposal”;

(ii) for each reference to “applicant” substitute “qualifying body”;

(iii) for each reference to “application” substitute “order proposal”; and

(iv) for paragraph (5) substitute—

“(5) The local planning authority shall not submit the order proposal for independent examination under paragraph 7 of Schedule 4B to the Act until the expiry of 14 days from the last date on which a copy of the statement was served in accordance with this regulation.”;

(m) in regulation 17—

(i) for paragraphs (1) and (2) (a) and (b) substitute—

“Publicity where an environmental statement is submitted after the order proposal

17.—(1) Where a qualifying body has submitted an order proposal without an environmental statement and the qualifying body later proposes to submit such a statement, it shall, before submitting it, comply with paragraphs (2) to (5).

(2) The qualifying body shall publish in a local newspaper circulating in the locality in which the land to which the order proposal relates is situated a notice stating—

(a) the qualifying body’s name, that an order proposal has been submitted, and the name and address of the relevant planning authority;

(b) the date on which the order proposal was submitted;”;

(ii) in sub-paragraph (2)(d)(i) for “application” substitute “order proposal”;

(iii) sub-paragraph (2)(d)(ii) shall not apply;

(iv) for sub-paragraph (2)(i) and (j) substitute—

“(i) that any person wishing to make representations about the order proposal should make them in writing, before the date named in accordance with sub-paragraph (e), to the relevant planning authority.”;

(v) in sub-paragraph (3)—

(aa) for “An applicant who” substitute “A qualifying body which”;

(bb) omit “, 11(4) or 12(5)”;

(vi) in paragraphs (4) and (6) for each reference to “applicant” substitute “qualifying body”;

(vii) for paragraph (7) substitute—

“(7) Where a qualifying body indicates that it intends to provide a statement in the circumstances mentioned in paragraph (1), the relevant planning authority must not consider the order proposal further until 21 days following the receipt of the statement and of the other documents so mentioned.”; and

(viii) omit paragraph (8);

(n) regulations 18 and 19 shall not apply;

(o) for regulation 20 substitute—

“Availability of copies of environmental statements

20. A qualifying body which submits an environmental statement in connection with a order proposal, shall ensure that a reasonable number of copies of the statement are available at the address named in the notices published or posted pursuant to regulation 23(2) of the Neighbourhood Planning (General) Regulations 2012 or regulation 17 as the address at which such copies may be obtained.”;

(p) In regulation 22—

(i) for paragraph (1) substitute—

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- “(1) Where a relevant planning authority or independent examiner dealing with an order proposal in relation to which a qualifying body has submitted an environmental statement are of the opinion that the statement should contain additional information in order to be an environmental statement, the authority or the examiner, as the case may be, shall notify the qualifying body in writing accordingly, and the qualifying body shall provide that additional information; and such information provided by the qualifying body is referred to in these Regulations as “further information”.”;
- (ii) for sub-paragraph (3)(a) substitute—
- “(a) the name of the qualifying body and the name and address of the relevant planning authority;”;
- (iii) for sub-paragraph (3)(b) substitute—
- “(b) the date on which the order proposal was submitted;”;
- (iv) sub-paragraph (3)(c) shall not apply;
- (v) in sub-paragraph (3)(f) for “planning permission or subsequent application” substitute “order proposal”;
- (vi) in sub-paragraph (3)(k) for “, the Secretary of State or the inspector (as the case may be)” substitute “or independent examiner.”;
- (vii) in paragraph (6) for “applicant or appellant” substitute “qualifying body”;
- (viii) for paragraph (7), substitute—
- “(7) Where information is requested under paragraph (1) or any other information is provided—
- (a) the relevant planning authority shall not consider the proposal further until 21 days following the receipt of the statement and of the other documents so mentioned;
- (b) the independent examiner shall not make their report until 21 days following the receipt of the statement and of the other documents so mentioned.”
- (ix) in paragraph (8) for “applicant or appellant” substitute “qualifying body”; and
- (x) for paragraph (10) substitute—
- “(10) The relevant planning authority or independent examiner may in writing require a qualifying body to produce such evidence as they may reasonably call for to verify any information in the environmental statement.”;
- (q) In regulation 23—
- (i) for paragraph (1) substitute—
- “(1) Where particulars of an order proposal are placed on the register, the relevant planning authority shall take steps to secure that there is also placed on the register a copy of any relevant—”;
- (ii) in sub-paragraph (1)(e) omit “, 11(2) or 12(4)”; and
- (iii) in paragraph (2) for “application is made for planning permission or subsequent consent” substitute “order proposal is submitted by a qualifying body”;

- (r) in regulation 24—
 - (i) for “Where an EIA application is determined by a local planning authority,” substitute “As soon as possible after making a decision to make the neighbourhood development order under section 61E(4) of the Act or to refuse to make it under section 61E(8) of the Act,”; and
 - (ii) paragraphs (2) and (3) shall not apply.
- (s) Parts 7 to 10 shall not apply; and
- (t) in regulation 53—
 - (i) in paragraph (3) for each reference to “application” substitute “order proposal”;
 - (ii) in sub-paragraph (4)(b) for “before planning permission for the development is granted” substitute “before a decision is made under paragraph 12(4) of Schedule 4B to the Act that the draft order meets the basic conditions; and
 - (iii) in paragraph (6) for “on the determination of the application concerned” substitute “on a decision being made under paragraph 12(4) of Schedule 4B to the Act that the draft order meets the basic conditions”.

7. In regulation 36(b) (appeal to Secretary of State without an environmental statement) for “paragraph (2) of this regulation” substitute “regulation 31”.

8. In regulation 38 (further information and evidence respecting environmental statements) for “this regulation” substitute “this Part”.

9. In regulation 43 (modification of provisions on prohibition of granting planning permission or subsequent consent)—

- (a) for “regulation 3(1)” substitute “regulation 3”; and
- (b) in paragraph (b) for “article 29(2)” substitute “article 29(3)”.

10. In regulation 47(2) (modification of provisions on preparation, publicity and procedures on submission of environmental statements) for “(3A) Where” substitute “(4) Where”.

11. In regulation 49(2)(b) and (c) (suspension of minerals development) for “paragraph (16)” substitute “paragraph (1)”.

12. In regulation 64(5) delete “laid”.

13. In paragraph 2(c)(v) of Schedule 3 (selection criteria for screening Schedule 2 development) before “areas designated by Member States” insert “areas classified or protected under Member States’ legislation”.