

SCHEDULE 1

Regulation 3

Consultation Bodies

Neighbourhood development plans

1. For the purposes of regulations 14 and 16, a “consultation body” means—
 - (a) where the local planning authority is a London borough council, the Mayor of London;
 - (b) a local planning authority, county council or parish council any part of whose area is in or adjoins the area of the local planning authority;
 - (c) the Coal Authority⁽¹⁾;
 - (d) the Homes and Communities Agency⁽²⁾;
 - (e) Natural England⁽³⁾;
 - (f) the Environment Agency⁽⁴⁾;
 - (g) the Historic Buildings and Monuments Commission for England (known as English Heritage)⁽⁵⁾;
 - (h) Network Rail Infrastructure Limited (company number 2904587);
 - (i) the Highways Agency;
 - (j) the Marine Management Organisation⁽⁶⁾;
 - (k) any person—
 - (i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003; and
 - (ii) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority;
 - (l) where it exercises functions in any part of the neighbourhood area—
 - (i) a Primary Care Trust established under section 18 of the National Health Service Act 2006⁽⁷⁾ or continued in existence by virtue of that section;
 - (ii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989⁽⁸⁾;
 - (iii) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986⁽⁹⁾;
 - (iv) a sewerage undertaker; and
 - (v) a water undertaker;
 - (m) voluntary bodies some or all of whose activities benefit all or any part of the neighbourhood area;
 - (n) bodies which represent the interests of different racial, ethnic or national groups in the neighbourhood area;

(1) See section 1 of the Coal Industry Act 1994 (c.21).

(2) See section 2 of the Housing and Regeneration Act 2008 (c.17).

(3) See section 1 of the Natural Environment and Rural Communities Act 2006 (c.16).

(4) See section 1(1) of the Environment Act 1995 (c.25).

(5) See section 32 of the National Heritage Act 1983 (c.47).

(6) See section 1 of the Marine and Coastal Access Act 2009 (c.23).

(7) 2006 c.41.

(8) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27).

(9) 1986 c.44. Section 7 was amended sections 3(2), 76(1) and (3) of, and paragraphs 1 and 4 of Schedule 6 to, the Utilities Act 2000.

Status: This is the original version (as it was originally made).

- (o) bodies which represent the interests of different religious groups in the neighbourhood area;
- (p) bodies which represent the interests of persons carrying on business in the neighbourhood area; and
- (q) bodies which represent the interests of disabled persons in the neighbourhood area.

Neighbourhood development orders and community right to build orders

- 2.—(1) For the purposes of regulations 21 and 23, a “consultation body” means—
- (a) any person referred to in paragraph 1(k) and (l);
 - (b) where the neighbourhood area to which the neighbourhood development order or community right to build order relates consists of or includes the whole or any part of the area of a parish council, that parish council;
 - (c) any parish council or, in the case of a neighbourhood development order (but not a community right to build order), a neighbourhood forum for an area which adjoins the neighbourhood area; and
 - (d) where the development to be authorised under the proposed neighbourhood development order or community right to build order falls within any category set out in the following Table, the person mentioned in the Table in relation to each of those categories.

Table

<i>Paragraph</i>	<i>Development</i>	<i>Consultation body</i>
(a)	Any development.	The Historic Buildings and Monument Commission for England (known as English Heritage)
(b)	Development which falls within a category specified in Schedule 5 to the Town and Country Planning (Development Management Procedure) (England) Order 2010 ⁽¹⁾ .	The person mentioned in relation to that category of development in Schedule 5 to that Order
(c)	Development of land— (i) forming the site of or in the neighbourhood of a civil aerodrome or technical site; or (ii) involving the construction of any building or works extending 91.4 metres or more above ground level.	The Civil Aviation Authority and NATS Holdings Limited
(d)	Development of land— (i) forming the site of or in the neighbourhood of a military aerodrome, technical site or explosives storage area; or (ii) involving the construction of any highway or formation, laying out or alteration of any means of access to a highway, which	Secretary of State for Defence

(1) [S.I. 2010/2184](#).

(2) [1953 c.49](#).

(3) London Protected Vista Directions were made by the Secretary of State under section 74(1)(c) of the 1990 Act.

<i>Paragraph</i>	<i>Development</i>	<i>Consultation body</i>
	is planned to run within 300 metres of the perimeter of a military aerodrome.	
(e)	Development which, in the qualifying body’s opinion, is likely to affect any garden or park of special historic interest which is registered in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953 ⁽²⁾ .	The Garden History Society
(f)	Development in the area of a London borough council to which any of Protected Vista Directions issued by the Secretary of State for Communities and Local Government in July 2010 apply ⁽³⁾ .	Mayor of London and, in relation to the protected vista of the Tower of London from outside City Hall on Queen’s Walk, the Historic Royal Palaces Trust
(g)	Development described in article 26(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (development affecting existing or proposed highways).	The Highways Agency

(1) [S.I. 2010/2184](#).

(2) [1953 c.49](#).

(3) London Protected Vista Directions were made by the Secretary of State under section 74(1)(c) of the 1990 Act.

(2) In the above Table—

- (a) in paragraphs (c) and (d) “aerodrome” means any area of land or water designed, equipped, set apart, commonly used or in prospective use for affording facilities for the landing and departure of aircraft and includes any area of space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing or departure of aircraft capable of descending or climbing vertically, particulars of which have been furnished by the Civil Aviation Authority or the Secretary of State to the local planning authority or authorities for the area in which it is situated;
- (b) in paragraph (c) “technical site” means any area within which is sited or is proposed to be sited equipment operated by or on behalf of NATS Holdings Limited, any of its subsidiaries or such other person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000⁽¹⁰⁾ for the provision of air traffic services, particulars of which have been furnished by the Civil Aviation Authority to the planning authority or authorities for the area in which it is situated;
- (c) in paragraph (d) “technical site” means any area within which is sited or is proposed to be sited equipment operated by or on behalf of the Secretary of State for Defence for the provision of air traffic services, particulars of which have been furnished by the Secretary of State for Defence to the planning authority or authorities for the area in which it is situated; and
- (d) in paragraph (g) “trunk road” and “special road” have the meanings given in section 329 of the Highways Act 1980⁽¹¹⁾.

(10) [2000 c.38](#).

(11) [1980 c.66](#).

SCHEDULE 2

Regulation 32

Habitats

Neighbourhood development plans

1. In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act⁽¹²⁾—

The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010⁽¹³⁾) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007⁽¹⁴⁾) (either alone or in combination with other plans or projects).

Amendments to the Conservation of Habitats and Species Regulations 2010

2. The Conservation of Habitats and Species Regulations 2010 are amended in accordance with the following paragraphs.

3. After regulation 78 (local development orders) insert—

*“Neighbourhood development orders***Neighbourhood development orders**

78A. A neighbourhood development order may not grant planning permission for development which—

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and
- (b) is not directly connected with or necessary to the management of the site.”.

4. After regulation 102 (assessment of implications) insert the following—

“Assessment of implications for European site: neighbourhood development plans

102A.—(1) A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.

(2) In this regulation, “qualifying body” means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the TCPA 1990, as applied by section 38C of the 2004 Planning Act⁽¹⁵⁾.

(3) Where the competent authority decide to revoke or modify a neighbourhood development plan after it has been made, they must for that purpose make an appropriate

(12) Schedule 4B was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 (c.20). Paragraph 8 of Schedule 4B applies to neighbourhood development plans by virtue of section 38A(3) of the Planning and Compulsory Purchase Act 2004 (c.5) (Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011)

(13) S.I. 2010/490, to which there are amendments not relevant to these regulations. “European site” is defined in regulations 3(1) and 8.

(14) S.I. 2007/1842, to which there are amendments not relevant to these regulations. “European offshore marine site” is defined in regulation 15.

(15) Section 38C was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011.

assessment of the implications for any European site likely to be significantly affected in view of that site’s conservation objectives; and regulation 102 and this regulation apply with the appropriate modifications in relation to such a revocation or modification.”

5. In regulation 107 (interpretation of Chapter 8)—

(a) in paragraph (1)—

- (i) in the definition of “land use plan”, at the end of sub-paragraph (f) delete “or” and at the end of sub-paragraph (g) add—

“or

(h) a neighbourhood development plan as defined in section 38A (neighbourhood development plans) of the 2004 Planning Act⁽¹⁶⁾”; and

- (ii) in the definition of “plan-making authority”, at the end of sub-paragraph (d) delete “or”, at the end of sub-paragraph (e) for “and” substitute “or”, and after sub-paragraph (e) add—

“(f) the local planning authority when exercising powers under Schedule 4B to the TCPA 1990 (as applied by section 38A(3) of the 2004 Planning Act); and”;

(b) in paragraph (2), at the end of sub-paragraph (l) delete “or” and at the end of sub-paragraph (m) add—

“; or

- (n) the holding of a referendum in accordance with paragraph 12(4) of Schedule 4B to the TCPA 1990 (as applied by section 38A(3) of the 2004 Planning Act).”

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;⁽¹⁷⁾

⁽¹⁶⁾ Section 38A was inserted by paragraph 7 of Schedule 9 to the Localism Act 2011.

⁽¹⁷⁾ Section 61E of the Town and Country Planning Act 1990 was inserted by paragraph 2 of Schedule 9 to the Localism Act 2011.

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

(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;”;

(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;
- (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”;
 - (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.

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

(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 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”;
- (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)”;

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

- (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—
 - “(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)”;
 - (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)—

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

- (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”.