
STATUTORY INSTRUMENTS

2017 No. 571

**The Town and Country Planning (Environmental
Impact Assessment) Regulations 2017**

PART 7

Restrictions of grants of permission

Neighbourhood development orders

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

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

- (a) the local planning authority adopts a screening opinion; or
- (b) the Secretary of State makes a screening direction under these Regulations,

to the effect that the proposed development is Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location, and regulation 5 shall apply in relation to that screening with the modifications set out in paragraph (3).

(3) In regulation 5—

(i) for 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 paragraph (4)(a) for “applicant” substitute “qualifying body”; and

(iii) in paragraph (5)(c), for “person” substitute “qualifying body”.

(4) 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 is satisfied that the basic condition prescribed by paragraph 2 of Schedule 3 to the Neighbourhood Planning (General) Regulations 2012⁽²⁾ is met; and
- (c) the EIA has been carried out in respect of that development and the local planning authority has taken the environmental information into consideration.

(5) In a case to which this paragraph applies these Regulations have effect subject to the following modifications—

(1) Schedule 4B to the Act was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 and amended by sections 140 and 141 of the Housing and Planning Act 2016.

(2) [S.I. 2012/637](#) which was amended by [S.I. 2015/20](#) and [2016/873](#).

- (a) in regulation 2(1), in the definition of “any other information” for “applicant or the appellant as the case may be” substitute “qualifying body”;
- (b) regulation 3 shall not apply;
- (c) in regulation 6—
 - (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), for “A person making a request for a screening opinion in relation to development where an application for planning permission has been or is proposed to be submitted” substitute “A qualifying body making a request for a screening opinion”;
 - (iii) omit paragraph (3); and
 - (iv) in paragraphs (4) to (7) and (9) to (11) for each reference to “person” substitute “qualifying body”;
- (d) in regulation 7 for each reference to “person” substitute “qualifying body”;
- (e) in regulation 8—
 - (i) for paragraph (1)(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.”;
 - (ii) in paragraph (1)(c)—
 - (aa) for “application” substitute “order proposal”; and
 - (bb) for “applicant” substitute “qualifying body”;
 - (iii) in paragraph (8)(1) for “or lodging of the proposal” substitute “of the order proposal”; and
 - (iv) in paragraph (8)(2) for “developer” substitute “qualifying body”;
- (f) omit regulations 9 and 10;
- (g) in regulation 11—
 - (i) for paragraph (1) substitute—
 - “(1) Where a qualifying body submits an EIA 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, the authority must 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 if the applicant” substitute “decline to consider the order proposal of the qualifying body”; and
- (vi) in paragraph (9)—
 - (aa) for each reference to “person” substitute “qualifying body”;
 - (bb) in sub-paragraphs (c) and (d) for each reference to “application” substitute “order proposal”;
 - (cc) in sub-paragraph (e) for “applicant” substitute “qualifying body”;
 - (dd) omit sub-paragraphs (f) and (g);
- (h) omit regulations 12 to 14;
- (i) in regulation 15—
 - (i) for paragraphs (1) and (2) substitute—
 - “(1) A qualifying body which is minded to submit an order proposal in respect of EIA development 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) must include—
 - (a) a plan sufficient to identify the land;
 - (b) a brief description of the nature and purpose of the development, including its location and technical capacity;
 - (c) an explanation of the likely significant effects of the proposed development on the environment; and
 - (d) such other information or representations as the qualifying body may wish to provide or make.”;
 - (ii) in paragraphs (3) to (5) and (7), for each reference to “person” substitute “qualifying body”;
 - (iii) in paragraph (6) for “applicant” substitute “qualifying body”; and
 - (iv) for paragraph (9) substitute—
 - “(9) An authority which has 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 16—
- (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 17—
- (i) for each reference to “person” substitute “qualifying body”; and
 - (ii) in paragraph (3), omit “12(6), 13(6) or 14(7)”;
- (l) in regulation 18—
- (i) omit paragraphs (1) and (2); and
 - (ii) in paragraph (5) for “developer” substitute “qualifying body”;
- (m) in regulation 19—
- (i) in paragraph (1) for “An applicant who makes an EIA application” substitute “A qualifying body which makes an EIA order proposal”;
 - (ii) in paragraphs (2) to (4), for each reference to “applicant” substitute “qualifying body”;
 - (iii) in paragraphs (2), (3) and (6) for each reference to “application” substitute “order proposal”; and
 - (iv) for paragraph (5) substitute—

“(5) The local planning authority must not submit the order proposal for independent examination under paragraph 7 of Schedule 4B to the Act until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.”;
- (n) in regulation 20—
- (i) for paragraphs (1) and (2)(a) and (b) substitute—

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

20.—(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 must, before submitting it, comply with paragraphs (2) to (5).

(2) The qualifying body must 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 paragraph (2)(d)(i) for “application” substitute “order proposal”;
- (iii) omit paragraph (2)(d)(ii);

- (iv) for paragraph (2)(j) substitute—
 - “(j) that any person wishing to make representations about the order proposal should make them in writing, before the latest date named in accordance with sub-paragraph (e) or (f), to the relevant planning authority.”;
- (v) in paragraph (3)—
 - (aa) for “An applicant who” substitute “A qualifying body which”;
 - (bb) omit “12(5), 13(5) or 14(6)”;
- (vi) in paragraphs (4) and (6) for each reference to “applicant” substitute “qualifying body”;
- (vii) for paragraph (8) substitute—
 - “(8) 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 30 days beginning with the last date on which the statement and other documents so mentioned are published in accordance with this regulation.”; and
- (viii) omit paragraph (9);
- (o) omit regulations 21 and 22;
- (p) for regulation 23 substitute—

“Availability of copies of environmental statements

- 23.** A qualifying body which submits an environmental statement in connection with an order proposal must 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⁽³⁾ or regulation 20 as the address at which such copies may be obtained.”;
- (q) in regulation 25—
 - (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 is of the opinion that, in order to satisfy the requirements of regulation 18(2) and (3), it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the development proposed in order to be an environmental statement, the authority or the examiner, as the case may be, must notify the qualifying body in writing accordingly, and the qualifying body must provide that additional information; and such information provided by the qualifying body is referred to in these Regulations as “further information”.”;
 - (ii) for paragraph (3)(a) substitute—
 - “(a) the name of the qualifying body and the name and address of the relevant planning authority.”;
 - (iii) for paragraph (3)(b) substitute—
 - “(b) the date on which the order proposal was submitted.”;
 - (iv) omit paragraph (3)(c);

(3) S.I. 2012/637 which was amended by S.I. 2015/20 and 2016/873.

- (v) in paragraph (3)(f) for “planning permission or subsequent application” substitute “order proposal”;
- (vi) in paragraph (3)(l) 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 must not consider the proposal further until 30 days following the receipt of the statement and of the other documents so mentioned;
 - (b) the independent examiner must not make their report until 30 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 (11) substitute—
 - “(11) 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.”;
- (r) in regulation 26—
 - (i) in paragraph (1)—
 - (aa) for “an application or appeal” substitute “whether to hold a referendum under paragraph 12(4) of Schedule 4B to the Act on the making of a neighbourhood development order”;
 - (bb) omit “the Secretary of State or an inspector, as the case may be,” and
 - (cc) in sub-paragraphs (c) and (d) for “planning permission or subsequent consent is to be granted” substitute “a referendum is to be held”; and
 - (ii) in paragraph (2)—
 - (aa) for “grant planning permission or subsequent consent for EIA” substitute “make an EIA order proposal subject to a referendum”; and
 - (bb) omit “or the Secretary of State or inspector, as the case may be,” in both places;
- (s) in regulation 28—
 - (i) for the opening words in paragraph (1) substitute—
 - “(1) Where particulars of an order proposal are placed on the register, the relevant planning authority must take steps to secure that there is also placed on the register a copy of any relevant—”;
 - (ii) in paragraph (1)(e) for “11(2), 12(5), 13(5) or 14(6)”, substitute “11(2)”; and
 - (iii) in paragraph (2) for “application is made for planning permission or subsequent consent” substitute “order proposal is submitted by a qualifying body”;
- (t) in regulation 29—
 - (i) in paragraph (1)—
 - (aa) for “Where an EIA application or appeal in relation to which an environmental statement has been submitted is determined by a relevant

planning authority, the Secretary of State or an inspector, as the case may be, the person making that determination ,” 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, the relevant planning authority”; and

(bb) for “developer” substitute “qualifying body”;

(ii) in paragraph (2)—

(aa) in sub-paragraph (b)(i) for “grant planning permission or subsequent consent” substitute “make the order”; and

(bb) in sub-paragraph (b)(ii) for “refuse planning permission or subsequent consent” substitute “not make the order”;

(u) in regulation 30—

(i) in paragraph (1), for “EIA application is determined by the local planning authority”, substitute, “authority decides to make the neighbourhood development order under section 61E(4) or to refuse to make it under section 61E(8)”; and

(ii) omit paragraph (2);

(v) omit Parts 7, 9 and 10 (except regulation 58); and

(w) in regulation 58—

(i) in paragraph (1)(a) for “proposed to be carried out in England is the subject of an EIA application” substitute “in England for which an order proposal has been submitted may be EIA development”;

(ii) in paragraph (3) for each reference to “application” substitute “order proposal”;

(iii) in paragraph (4) for “before development consent 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

(iv) 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”.