

SCHEDULES

SCHEDULE 3

Article 17

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under Requirements

1.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required under a requirement the discharging authority must give notice to the undertaker of its decision on the application including the reasons before the end of the decision period.

(2) For the purposes of paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph (2), 8 weeks from the first business day immediately following that on which the application is received by the discharging authority or the day on which the fee under paragraph 3(1) is received, whichever is the later;
- (b) where further information is requested under paragraph (2), 8 weeks from the first business day immediately following that on which further information has been supplied by the undertaker under paragraph (2);
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

Further information

2.—(1) In relation to any application to which this Schedule applies, the discharging authority may request further information from the undertaker where it is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information necessary, it must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

Fees

3.—(1) Where an application is made to the discharging authority for agreement or approval in respect of a requirement the fee contained in regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(1)(as may be amended from time to time) is to apply and must be paid to the discharging authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 8 weeks of the discharging authority either rejecting the application as invalidly made or failing to determine the application within the decision period as determined under paragraph (1), unless within that period the undertaker agrees, in writing, that the fee may be retained by the discharging authority and credited in respect of a future application.

(1) [S.I. 2012/2920](#). Regulation 16 was amended by [S.I. 2017/1314](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appeals

- 4.—(1) The undertaker may appeal in the event that—
- (a) the discharging authority refuses an application for any agreement or approval required by a requirement or grants it subject to conditions;
 - (b) the discharging authority does not give notice of its decision to the undertaker within the decision period as determined in paragraph 1(2);
 - (c) on receipt of a request for further information pursuant to paragraph (2) the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
 - (d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information, which the undertaker considers, is not necessary for consideration of the application.
- (2) The appeal process is as follows—
- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);
 - (b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority;
 - (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) and forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
 - (d) the discharging authority must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of its written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
 - (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph (d) above.
- (3) The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 business days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (e).
- (4) If the appointed person considers that further information is necessary to enable him to consider the appeal he must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (5) Any further information required pursuant to sub-paragraph 4 must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person and made available to all appeal parties within 10 business days of that date.
- (6) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.

(8) The appointed person may proceed to a decision even though no written representations have been made within those time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is final and binding on the parties and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of the relevant requirement in Schedule 2 (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to paragraph (12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance or any circular or guidance which may from time to time replace it.

(13) In this Schedule:

- (a) "business day" means a normal working day, excluding weekends and Bank Holidays; and
- (b) "Planning Practice Guidance" means the Planning Practice Guidance as published online by the Ministry of Housing, Communities and Local Government.