

SCHEDULES

SCHEDULE 2

REQUIREMENTS

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

21.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 23; or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraphs (3) and (4), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) An application has been made to the Secretary of State for any consent, agreement or approval required by a requirement in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to materially new or materially different environmental effects in comparison with those reported in the environmental statement,

then the application is taken to have been refused by the Secretary of State at the end of that period.

(4) Sub-paragraph (2) does not apply to an application made to the Secretary of State under requirement 8 (Thames Basin Heaths Special Protection Area (SPA) Compensatory Habitat Creation and Enhancement Measures) and requirement 17(3) (restoration and/or landscaping of land used temporarily for construction).

(5) Where approval or agreement must be obtained under any of the requirements included in this Schedule, the request or submission for approval must be in writing and approval or agreement must be given in writing.

Pre-application consultation

22.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and an account as to how the undertaker has had regard to the responses received.

(2) At the time of submitting an application to the Secretary of State, the undertaker must provide a copy of the summary report to the requirement consultees referred to in the requirement under which approval is being sought.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under subparagraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

Further information

23.—(1) In relation to any application to which this Schedule applies, or part of any application, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within this 21 day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 21 (applications made under requirements) and in this paragraph.

(4) In this paragraph, “business day” means a day other than Saturday or Sunday, which is not a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971⁽¹⁾.

Register of requirements

24.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

(1) 1971 c. 80.

Anticipatory steps towards compliance with any requirement

25. If before this Order came into force the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.