

## SCHEDULES

### SCHEDULE 2

#### REQUIREMENTS

#### PART 2

#### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

##### *Applications made under requirements*

**25.**—(1) Where an application has been made to a relevant planning authority 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 relevant planning authority must give notice to the undertaker of its decision on the application within a period of eight weeks beginning with—

- (a) the day immediately following that on which the application is received by the authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under sub-paragraph (3); or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant planning authority.

(2) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects than those assessed in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(3) In determining any application made to the relevant planning authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the relevant planning authority may—

- (a) may give or refuse its consent, agreement or approval; or
- (b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the relevant planning authority must provide its reasons for that decision with the notice of its decision.

(4) Where an application has been made under sub-paragraph (1), the relevant planning authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(5) If the relevant planning authority or a requirement consultee considers further information is required, the relevant planning authority must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(6) If the relevant planning authority does not give the notification mentioned in sub-paragraph (4) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

### Commencement Information

**11** Sch. 2 para. 25 in force at 8.9.2022, see [art. 1](#)

### *Fees*

**26.**—(1) Where an application is made to a relevant planning authority for any consent, agreement or approval required by a requirement, the fee for the discharge of conditions attached to a planning permission 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 replaced from time to time) is to apply and must be paid to the relevant planning authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within a period of 35 days of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority fails to determine the application within a period of 8 weeks from the date on which it is received, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application; or
- (c) a longer period where a longer time for determining the application has been agreed pursuant to paragraph 25(1)(c).

### Commencement Information

**12** Sch. 2 para. 26 in force at 8.9.2022, see [art. 1](#)

### *Appeals*

**27.**—(1) The undertaker may appeal to the Secretary of State if—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by—
  - (i) a requirement and any document referred to in any requirement in Part 1 of this Schedule; or
  - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
- (b) the relevant authority does not give notice of its decision to the undertaker within the period specified in paragraph 25(1) or grants it subject to conditions;
- (c) having received a request for further information under paragraph 25(4) the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the relevant 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.

(1) [S.I. 2012/2920](#), as amended by [S.I. 2017/1314](#). There are other amendments to the Regulations that are not relevant to this Order.

- (2) The appeal procedure is as follows—
- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the decision period as determined under paragraph 25;
  - (b) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant planning authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
  - (c) the undertaker must on the same day provide copies of the appeal documents to the relevant planning authority and the requirement consultee (if applicable);
  - (d) as soon as is practicable after receiving the appeal documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”)(2) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
  - (e) the relevant authority and the requirement consultee (if applicable) must submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
  - (f) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to paragraph (d) above; and
  - (g) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person 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 must be submitted.
- (4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.
- (5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.
- (6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

**Commencement Information**

**I3** Sch. 2 para. 27 in force at 8.9.2022, see [art. 1](#)

*Outcome of appeals*

- 28.**—(1) On an appeal under paragraph 27, the appointed person may—
- (a) allow or dismiss the appeal; or

(2) The appointment is made at the discretion of the Secretary of State, and such appointment may be made by the Planning Inspectorate on behalf of the Secretary of State.

- (b) reverse or vary any part of the decision of the relevant planning 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Any consent, agreement or approval given by the appointed person pursuant to this paragraph is deemed to be an approval for the purpose of Part 1 of this Schedule as if it had been given by the relevant planning authority.
- (6) The relevant planning 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) does not affect or invalidate the effect of the appointed person’s determination.
- (7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.
- (8) On application by the relevant 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.
- (9) In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance or any guidance which may from time to time replace it.

**Commencement Information**

**I4** Sch. 2 para. 28 in force at 8.9.2022, see [art. 1](#)

*Interpretation of Part 2 of Schedule 2*

**29.** In Part 2 of Schedule 2—

“the appeal parties” means the relevant planning authority, the requirement consultee and the undertaker;

“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(3); and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that requirement.

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(3) 1971 c. 80.

**Changes to legislation:** There are currently no known outstanding effects for the The Manston Airport Development Consent Order 2022, PART 2. (See end of Document for details)

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**Commencement Information**

**I5** Sch. 2 para. 29 in force at 8.9.2022, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Manston Airport Development Consent Order 2022, PART 2.