

SCHEDULES

SCHEDULE 4

Article 46

DISCHARGE OF REQUIREMENTS

Applications made under Requirements

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

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

(a) in the case of a major Requirement—

- (i) where no further information is requested under sub-paragraph (3), 8 weeks from the day immediately following that on which the application is received by the relevant authority;
- (ii) where further information is requested under sub-paragraph (3), 8 weeks from the day immediately following that on which further information has been supplied by the undertaker under sub-paragraph (3); or
- (iii) such longer period as may be agreed by the undertaker and the relevant authority in writing before the end of the period in sub-paragraph (i) or (ii); and

(b) in the case of a minor Requirement—

- (i) where no further information is requested under sub-paragraph (3), 5 weeks from the day immediately following that on which the application is received by the relevant authority;
- (ii) where further information is requested under sub-paragraph (3), 5 weeks from the day immediately following that on which further information has been supplied by the undertaker under sub-paragraph (3); or
- (iii) 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 (i) or (ii).

(3) Where an application has been made to which this Schedule applies the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(4) If the relevant authority considers that further information is necessary, the relevant authority must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(5) If the Requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within 1 business day of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 1 business day of receipt of such a request and in any event within 28 business days of receipt of the application.

(6) If the relevant authority does not give the notification mentioned in sub-paragraph (4) or (5), 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.

Status: Point in time view as at 09/02/2016.

Changes to legislation: There are currently no known outstanding effects for the The National Grid (Hinkley Point C Connection Project) Order 2016, SCHEDULE 4. (See end of Document for details)

Fees

2.—(1) Where an application is made to a relevant planning authority for any consent, agreement or approval required by a Requirement, a fee must be paid to the relevant planning authority as follows—

- (a) £97; or
 - (b) such other fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission).
- (2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of—
- (a) the application being rejected as invalidly made; or
 - (b) the relevant planning authority failing to determine the application within the decision period specified in paragraph 1(1),

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.

Appeals

3.—(1) The undertaker may appeal if—

- (a) the relevant authority refuses an application for any consent, agreement or approval required by—
 - (i) a Requirement, and any document referred to in any Requirement; 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 1(1);
 - (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the relevant 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.
- (2) The procedure for appeals is as follows—
- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
 - (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
 - (c) as soon as is practicable after receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) 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;
 - (d) the relevant authority and the requirement consultee (if applicable) may 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;

- (e) 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); and
- (f) 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 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).

Outcome of appeals

4.—(1) On an appeal under paragraph 3, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant 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 Schedule is deemed to be an approval for the purpose of Schedule 3 to this Order as if it had been given by the relevant planning authority.

(6) The relevant 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 and the terms on which it is made, the appointed person must have regard to Communities and Local Government Circular 03/2009 or any circular or guidance which may from time to time replace it.

Status: Point in time view as at 09/02/2016.

Changes to legislation: There are currently no known outstanding effects for the The National Grid (Hinkley Point C Connection Project) Order 2016, SCHEDULE 4. (See end of Document for details)

Interpretation of Schedule 4

5. In this Schedule—

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

“major Requirement” means Requirements 3, 5, 6, 8, 9, 10, 12, 18, 22, 26, 27 and 30 in Schedule 3;

“minor Requirement” means Requirements 4, 7, 11, 13, 16, 17, 19, 20, 21, 24, 25, 28, 31, 32, 34, 36 and 37 in Schedule 3;

“relevant authority” means the relevant planning authority, relevant highway authority, relevant street authority, Environment Agency, Natural England or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent or approval sought; and

“requirement consultee” means any body named in a Requirement as a body to be consulted by the relevant authority in discharging that Requirement.

Status:

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Changes to legislation:

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