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STATUTORY INSTRUMENTS

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**2017 No. 571**

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

**PART 3**

Procedures relating to applications for planning permission

**Applications which appear to require screening opinion**

8.—(1) Where it appears to the relevant planning authority that—

- (a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the proposal were a request made under regulation 6(1).

(2) Where regulation 6(5) applies by virtue of this regulation the relevant planning authority must, where necessary to ensure that the developer has provided the information referred to in regulation 6(2), make a request for additional information before issuing a screening opinion.

**Subsequent applications where environmental information previously provided**

9.—(1) This regulation applies where it appears to the relevant planning authority that—

- (a) an application which is before them for determination—
  - (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
  - (ii) has not itself been the subject of a screening opinion or screening direction; and
  - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) either—
  - (i) the application for planning permission to which the subsequent application relates was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; or
  - (ii) the application is for the approval of a matter where the approval is required by or under a condition to which planning permission deemed by [<sup>F1</sup>a qualifying enactment] is subject.

[<sup>F2</sup>(1A) In paragraph (1)(b)(ii), “qualifying enactment” means—

- (a) section 10(1) of the Crossrail Act 2008,

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- (b) section 20(1) or 50(5)(a) of the High Speed Rail (London - West Midlands) Act 2017, or  
 (c) section 17(1) or 47(3)(a) of the High Speed Rail (West Midlands - Crewe) Act 2021.]

(2) Where it appears to the relevant planning authority that the environmental information already before them is adequate to assess the significant effects of the development on the environment, they must take that information into consideration in their decision for subsequent consent.

(3) Where it appears to the relevant planning authority that the environmental information already before them is not adequate to assess the significant effects of the development on the environment, they must serve a notice seeking further information in accordance with regulation 25.

#### Textual Amendments

- F1** Words in [reg. 9\(1\)\(b\)\(ii\)](#) substituted (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\), ss. 55\(2\)\(a\), 64\(1\)](#)
- F2** [Reg. 9\(1A\)](#) inserted (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\), ss. 55\(2\)\(b\), 64\(1\)](#)

#### Subsequent applications where environmental information not previously provided

**10.**—(1) Where it appears to the relevant planning authority that—

- (a) an application which is before them for determination—
- (i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;
  - (ii) has not itself been the subject of a screening opinion or screening direction; and
  - (iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and
- (b) the application for planning permission to which the subsequent application relates was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the subsequent application were a request made under regulation 6(1).

(2) Where regulation 6(5) applies by virtue of this regulation, the relevant planning authority must, where necessary to ensure that the applicant has provided the information referred to in regulation 6(3)(c), make a request for additional information before issuing a screening opinion.

#### EIA applications made to a relevant planning authority without an environmental statement

**11.**—(1) Where an EIA application which is before a relevant planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the relevant planning authority must notify the applicant in writing that the submission of an environmental statement is required.

(2) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the relevant planning authority must notify the applicant of any such person.

(3) A relevant planning authority must notify the applicant in accordance with paragraph (1) within 3 weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Secretary of State, after the expiry of that period of 3 weeks or of any longer period so agreed, makes a screening direction to the effect that the development is EIA development, the relevant planning authority must so notify the applicant within

7 days beginning with the date the relevant planning authority received a copy of that screening direction.

(4) An applicant 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 the applicant accepts the view of the relevant planning authority and is providing an environmental statement; or
- (b) unless the condition referred to in paragraph (5) is satisfied, that the applicant is writing to the Secretary of State to request a screening direction.

(5) For the purpose of paragraph (4)(b) the condition is—

- (a) if the application referred to in paragraph (1) is an application for planning permission, that the Secretary of State has made a screening direction in respect of the development; or
- (b) if the application referred to in paragraph (1) is a subsequent application, that the Secretary of State has made a screening direction in respect of the development on a date after the subsequent application was submitted.

(6) If the applicant does not write to the relevant planning authority in accordance with paragraph (4), the permission or subsequent consent sought is, unless the condition referred to in paragraph (7) is satisfied, deemed to be refused at the end of period referred to in paragraph (4), and the deemed refusal—

- (a) must be treated as a decision of the relevant planning authority for the purposes of article 40(4)(c) (register of applications) of the Order; but
- (b) must not give rise to an appeal to the Secretary of State under section 78<sup>M1</sup> of the Act (right to appeal against planning decisions and failure to take such decisions).

(7) For the purpose of paragraph (6) the condition is—

- (a) if the application referred to in paragraph (1) is an application for planning permission, that the Secretary of State has made a screening direction to the effect that the development is not EIA development; or
- (b) if the application referred to in paragraph (1) is a subsequent application, that the Secretary of State has made a screening direction to the effect that the development is not EIA development on a date after the subsequent application was submitted.

(8) A relevant planning authority which has given a notification in accordance with paragraph (1) must, unless the Secretary of State makes a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 20(6).

(9) A person who requests a screening direction pursuant to paragraph (4)(b) must send the request to the Secretary of State together with copies of—

- (a) the request to the relevant planning authority under regulation 6(1) and the documents which accompanied it;
- (b) any notification made under regulation 6(5) and any response sent by that person to the relevant planning authority;
- (c) the application;
- (d) all documents sent to the relevant planning authority as part of the application;
- (e) all correspondence between the applicant and the relevant planning authority relating to the proposed development;
- (f) a copy of any planning permission granted for the development; and

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(g) in the case of a subsequent application, documents or information relating to the planning permission granted for the development to which the subsequent application relates, and paragraphs (2) to (8) of regulation 7 apply to a request under this regulation as they apply to a request made pursuant to regulation 6(10).

#### **Marginal Citations**

**M1** Section 78 has been amended by section 17 of the 1991 Act; section 43 of the Planning and Compulsory Purchase Act 2004; sections 196 and 197 of, paragraphs 1 and 3 of Schedule 10 to, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008; sections 121 and 123 of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; section 1 of, and paragraphs 1 and 8 of Schedule 1 to, the Growth and Infrastructure Act 2013; article 3 of, and paragraphs 1 and 3 of Schedule 1 to, [S.I. 2014/2773](#); section 30 of, and paragraphs 2 and 12 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016.

#### **EIA applications made directly to the Secretary of State without an environmental statement**

**12.**—(1) Where an application has been made directly to the Secretary of State under section 62A of the Act (When application may be made directly to the Secretary of State), and it appears to the Secretary of State that—

- (a) it is a Schedule 1 application or a Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (2) to (8) of regulation 7 apply as if the application were a request made by the applicant pursuant to regulation 6(10).

(2) Where regulation 7(3) applies to an application made under section 62A of the Act (When application may be made directly to the Secretary of State) the Secretary of State must, where necessary to ensure that the developer has provided the information referred to in regulation 6(2) [<sup>F3</sup> or (3) as appropriate], make a request for additional information before issuing a screening direction.

(3) Where the Secretary of State has determined that an application made under section 62A of the Act (When application may be made directly to the Secretary of State) is an EIA application and it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Secretary of State must notify the applicant in writing that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

(4) The Secretary of State must notify the applicant of a determination under paragraph (3) within 3 weeks beginning with the date the application was received or such longer period as may be agreed in writing with the applicant.

(5) Where the Secretary of State is aware that any particular person is, or is likely to be, affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the Secretary of State must notify the applicant of any such person.

(6) An applicant who receives a notification under paragraph (3) may, within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(7) If the applicant does not write in accordance with paragraph (6), the Secretary of State is under no duty to deal with the application and, at the end of the period referred to in paragraph (6), must inform the applicant in writing that no further action is being taken on the application.

(8) Where—

- (a) a notification has been given under paragraph (3), and
- (b) the applicant does not submit an environmental statement and comply with regulation 20(6),

the Secretary of State must determine the relevant application only by refusing planning permission.

(9) In this regulation, “Schedule 1 application” and “Schedule 2 application” are to be taken to include subsequent applications.

#### Textual Amendments

- F3** Words in reg. 12(2) inserted (1.10.2018) by [The Town and Country Planning and Infrastructure Planning \(Environmental Impact Assessment\) \(Amendment\) Regulations 2018 \(S.I. 2018/695\)](#), regs. 1, 2(2)

### Application referred to the Secretary of State without an environmental statement

**13.**—(1) Where an application has been referred to the Secretary of State for determination under section 77 of the Act (reference of applications to Secretary of State), and it appears to the Secretary of State that—

- (a) it is a Schedule 1 application or a Schedule 2 application; and
- (b) the development in question—
  - (i) has not been the subject of a screening opinion or screening direction; or
  - (ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) to (8) of regulation 7 apply as if the referral of the application were a request made by the applicant pursuant to regulation 6(10).

(2) Where regulation 7(3) applies to an application by virtue of paragraph (1), the Secretary of State must, where necessary to ensure that the developer has provided—

- (a) in the case of applications for planning permission, the information referred to in regulation 6(2); and
- (b) in the case of subsequent applications, the information referred to in regulation 6(3),

make a request for additional information before issuing a screening direction.

(3) Where the Secretary State has determined that an application referred to the Secretary of State under section 77 of the Act (reference of applications to Secretary of State) for determination is an EIA application but is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Secretary of State must notify the applicant in writing that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

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(4) The Secretary of State must notify the applicant of the Secretary of State's determination under paragraph (3) within 3 weeks beginning with the date the application was received or such longer period as may be reasonably required.

(5) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, and that particular person is unlikely to become aware of the application by means of a site notice or by local advertisement, the Secretary of State must notify the applicant of any such person.

(6) An applicant who receives a notification under paragraph (3) may, within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(7) If the applicant does not write in accordance with paragraph (6), the Secretary of State is not under a duty to deal with the application and at the end of the period referred to in paragraph (6) must inform the applicant in writing that no further action is being taken on the application.

(8) Where—

- (a) a notification has been given under paragraph (3), and
- (b) the applicant does not submit an environmental statement and comply with regulation 20(6),

the Secretary of State must determine the relevant application only by refusing planning permission or subsequent consent.

(9) In this regulation, “Schedule 1 application” and “Schedule 2 application” are to be taken to include subsequent applications.

#### **Appeal to the Secretary of State without an environmental statement**

**14.**—(1) Where on consideration of an appeal under section 78 of the Act (right to appeal against planning decisions and failure to take such decisions) it appears to the Secretary of State that—

- (a) the application to which the appeal relates (“the relevant application”) is a Schedule 1 application or a Schedule 2 application; and
- (b) the development in question—
  - (i) has not been the subject of a screening opinion or screening direction; or
  - (ii) in the case of a relevant application which is a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and
- (c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) to (8) of regulation 7 apply as if the appeal were a request made by the appellant pursuant to regulation 6(10).

(2) Where an inspector is dealing with an appeal and a question arises as to whether the relevant application is an EIA application and it appears to the inspector that it may be such an application, the inspector must refer that question to the Secretary of State and must not determine the appeal, except by refusing planning permission or subsequent consent, before a screening direction is made.

(3) Paragraphs (3) to (8) of regulation 7 apply to a question referred under paragraph (2) as if the referral of that question were a request made by the appellant pursuant to regulation 6(10).

(4) Where regulation 7(3) applies to an appeal by virtue of paragraph (1) or (3) the Secretary of State must, where necessary to ensure that the developer has provided—

- (a) in the case of a relevant application which is an application for planning permission, the information referred to in regulation 6(2); and

(b) in the case of a relevant application which is a subsequent application the information referred to in regulation 6(3),  
make a request for additional information before issuing a screening direction.

(5) Where it appears to the Secretary of State that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, the Secretary of State must notify the appellant in writing that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

(6) Where the Secretary of State is aware that any particular person is or is likely to be affected by, or has an interest in, the application, and that particular person is unlikely to become aware of the application by means of a site notice or by local advertisement, the Secretary of State must notify the appellant of any such person.

(7) An appellant who receives a notification under paragraph (5), may within 3 weeks beginning with the date of the notification, confirm in writing to the Secretary of State that an environmental statement will be provided.

(8) If the appellant does not write in accordance with paragraph (7), the Secretary of State or, where relevant, the inspector, is not under a duty to deal with the appeal; and at the end of the period referred to in paragraph (7) must inform the appellant that no further action is being taken on the appeal.

(9) Where—

(a) a notification has been given under paragraph (5), and

(b) the appellant does not submit an environmental statement and comply with regulation 20(6),

the Secretary of State or, where relevant, the inspector, must determine the appeal only by refusing planning permission or subsequent consent.

(10) In this regulation, “Schedule 1 application” and “Schedule 2 application” are to be taken to include subsequent applications.

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