
STATUTORY INSTRUMENTS

2017 No. 571

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

PART 5

Publicity and procedures on submission of environmental statements and decision making

Environmental statements

18.—(1) Subject to regulation 9, an EIA application must be accompanied by an environmental statement for the purposes of these Regulations.

(2) A subsequent application is to be taken to be accompanied by an environmental statement for the purpose of paragraph (1) where the application for planning permission to which it relates was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, but this is subject to regulation 9.

(3) An environmental statement is a statement which includes at least—

- (a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;
- (b) a description of the likely significant effects of the proposed development on the environment;
- (c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
- (f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.

(4) An environmental statement must—

- (a) where a scoping opinion or direction has been issued in accordance with regulation 15 or 16, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion or direction);
- (b) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and

Status: Point in time view as at 16/05/2017.

Changes to legislation: There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, PART 5. (See end of Document for details)

- (c) be prepared, taking into account the results of any relevant UK environmental assessment, which are reasonably available to the person preparing the environmental statement, with a view to avoiding duplication of assessment.
- (5) In order to ensure the completeness and quality of the environmental statement—
 - (a) the developer must ensure that the environmental statement is prepared by competent experts; and
 - (b) the environmental statement must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts.

Procedure where an environmental statement is submitted to a local planning authority

19.—(1) An applicant who makes an EIA application must submit to the relevant planning authority an additional copy of the environmental statement for transmission to the Secretary of State.

(2) If, at the same time as serving the environmental statement on the relevant planning authority under paragraph (1) the applicant serves a copy of the environmental statement on any other body, the applicant must—

- (a) serve with it a copy of the application and any plan submitted with the application (unless these have already been provided to the body in question);
- (b) inform the body that representations may be made to the relevant planning authority; and
- (c) inform the authority of the name of each body so served and of the date of service.

(3) When a relevant planning authority receives an environmental statement in connection with an EIA application under paragraph (1), the relevant planning authority must—

- (a) send to the Secretary of State, within 14 days of receipt of the statement, a copy of the statement and a copy of the application and of any documents submitted with the application;
- (b) inform the applicant of the number of copies required to enable the authority to comply with sub-paragraph (c);
- (c) forward to any consultation body which has not received a copy directly from the applicant a copy of the environmental statement and inform any such consultation body that they may make representations; and
- (d) where the relevant planning authority is aware of any particular person who 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, send a notice to such person containing the details set out in regulation 20(2)(b) to (k) and the name and address of the relevant planning authority.

(4) The applicant must send the copies required for the purposes of paragraph (3)(c) to the relevant planning authority.

(5) Where an applicant submits an environmental statement to the relevant planning authority under paragraph (1), the provisions of articles 15 and 16 of, and Schedule 3 to, the Order (publicity for applications for planning permission) apply to a subsequent application as they apply to an application for planning permission except that in the relevant requisite notice in Schedule 3 to the Order for the reference to—

- (i) “application for planning permission” there is substituted “ application for subsequent consent ”; and
- (ii) “planning permission to” there is substituted “subsequent application in respect of”.

(6) The relevant planning authority must not determine the EIA application until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.

Publicity where an environmental statement is submitted after the planning application

20.—(1) Where an application for planning permission or a subsequent application has been made without an environmental statement and the applicant proposes to submit such a statement, the applicant must, before submitting it, comply with paragraphs (2) to (5).

(2) The applicant must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

- (a) the applicant's name, that an application is being made for planning permission or subsequent consent to the relevant planning authority or the Secretary of State, and the name and address of the relevant planning authority or (in the case of an application made to the Secretary of State) the name and address of the Secretary of State;
- (b) the date on which the application was made and, if it be the case, that it has been made or referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;
- (c) the address or location and the nature of the proposed development;
- (d) that—
 - (i) a copy of the application for planning permission, any accompanying plan and other documents, and a copy of the environmental statement, and
 - (ii) in the case of a subsequent application, a copy of the planning permission in respect of which that subsequent application has been made and supporting documents,may be inspected by members of the public at all reasonable hours;
- (e) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);
- (f) details of a website maintained by or on behalf of the authority on which the environmental statement and the other documents referred to in sub-paragraph (d) have been made available in accordance with paragraph (7), and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);
- (g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the statement may be obtained;
- (h) that copies of the statement may be obtained there so long as stocks last;
- (i) if a charge is to be made for a copy, the amount of the charge;
- (j) that any person wishing to make representations about the application should make them in writing, before the latest date named in accordance with sub-paragraph (e) or (f), to the relevant planning authority or (in the case of an application made or referred to the Secretary of State, or of an appeal) to the Secretary of State; and
- (k) the address to which representations should be sent.

(3) An applicant who is notified under regulation 11(2), 12(5), 13(5) or 14(6) of such a person as mentioned in any of those provisions must serve a notice on every such person; and the notice must contain the information specified in paragraph (2).

Status: Point in time view as at 16/05/2017.

Changes to legislation: There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, PART 5. (See end of Document for details)

(4) The applicant must post on the land a notice containing the information specified in paragraph (2), but this provision does not apply if the applicant has not, and is not reasonably able to acquire, such rights as would enable the applicant to comply.

(5) The notice mentioned in paragraph (4) must—

- (a) be left in position for not less than 7 days in the 28 days immediately preceding the date of the submission of the statement; and
- (b) be affixed firmly to some object on the land and sited and displayed in such a way as to be easily visible to, and readable by, members of the public without going on to the land.

(6) The environmental statement, when submitted, must be accompanied by—

- (a) a copy of the notice mentioned in paragraph (2) certified by or on behalf of the applicant as having been published in accordance with paragraph (2); and
- (b) a certificate by or on behalf of the applicant which states either—
 - (i) that a notice was posted on the land in compliance with this regulation, when this was done, and that the notice was left in position for not less than 7 days of the 28 days immediately preceding the date of the submission of the environmental statement, or that, without any fault or intention on the applicant's part, it was removed, obscured or defaced before 7 days had elapsed and the applicant took reasonable steps for its protection or replacement, specifying the steps taken; or
 - (ii) that the applicant was unable to comply with paragraphs (4) and (5) because the applicant did not have the necessary rights to do so; that any reasonable steps available to acquire those rights have been taken but unsuccessfully, specifying the steps taken.

(7) The relevant planning authority must make the environmental statement available for inspection on a website maintained by or on behalf of the authority.

(8) Where an applicant indicates that it is proposed to provide an environmental statement in the circumstances mentioned in paragraph (1), the relevant planning authority, the Secretary of State or the inspector, as the case may be, must (unless disposed to refuse the permission or subsequent consent sought) suspend consideration of the application or appeal until receipt of the environmental statement and the other documents mentioned in paragraph (6); and must not determine it during the period of 30 days beginning with the last date on which the environmental statement and the other documents so mentioned are published in accordance with this regulation.

(9) Where it is proposed to submit an environmental statement in connection with an appeal, this regulation applies as if for references to the applicant there were substituted references to the appellant.

(10) The requirement in paragraph (2) to publish a notice in a local newspaper and the requirement in paragraph (6)(a) do not apply to the Isles of Scilly and, in relation to the Isles of Scilly, the reference in paragraph (8) to paragraph (6) must be construed as a reference to paragraph (6)(b).

Provision of copies of environmental statements, any other information and further information for the Secretary of State on referral or appeal

21. Where an applicant for planning permission or subsequent consent has submitted to the relevant planning authority in connection with that application an environmental statement, any other information or further information, and—

- (a) the application is referred to the Secretary of State under section 77^{M1} of the Act (reference of applications to Secretary of State); or
- (b) the applicant appeals under section 78^{M2} of the Act (right to appeal against planning decisions and failure to take such decisions),

the applicant must supply the Secretary of State with a copy of the environmental statement and, where relevant, any other information or further information unless, in the case of a referred application, the relevant planning authority has already done so.

Marginal Citations

- M1** Section 77 has been amended by section 32 of, and paragraph 18 of Schedule 7 to, the 1991 Act; section 196 of, and paragraphs 1 and 2 of Schedule 10 to, the Planning Act 2008; section 121 of, and paragraphs 1 and 10 of Schedule 12 to, the Localism Act 2011; section 30 of, and paragraphs 2 and 11 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 20 of Schedule 12 to, the Housing and Planning Act 2016.
- M2** 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.

Procedure where an environmental statement is submitted to the Secretary of State

22.—(1) This regulation applies where an applicant submits an environmental statement to the Secretary of State in relation to an EIA application which is before the Secretary of State or an inspector for determination or is the subject of an appeal to the Secretary of State.

(2) The applicant or appellant must submit 2 copies of the environmental statement to the Secretary of State who must send a copy to the relevant planning authority.

(3) An applicant or appellant who submits an environmental statement to the Secretary of State may provide a copy of it to any other body, and if so must comply with regulation 19(2)(a) and (b) as if the reference in regulation 19(2)(b) to the relevant planning authority were a reference to the Secretary of State, and inform the Secretary of State of the matters mentioned in regulation 19(2)(c).

(4) The Secretary of State must comply with regulation 19(3) (except sub-paragraph (a) of that regulation) and the applicant or appellant must comply with regulation 19(4), as if—

(a) references in those provisions to the relevant planning authority were references to the Secretary of State; and,

(b) in the case of an appeal, references to the applicant were references to the appellant,

and the Secretary of State or the inspector must comply with regulation 19(6) as if it referred to the Secretary of State or the inspector instead of to the relevant planning authority.

Availability of copies of environmental statements

23. An applicant for planning permission or subsequent consent, or an appellant, who submits an environmental statement in connection with an application or appeal, must ensure that a reasonable number of copies of the statement are available at the address named in the notices published or posted pursuant to article 15 of the Order, articles 13 and 14 of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013^{M3} or regulation 20.

Marginal Citations

M3 S.I. 2013/2140. Article 14 was amended by articles 3 and 5 of S.I. 2014/1532.

Charges for copies of environmental statements

24. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of an environmental statement made available in accordance with regulation 23.

Further information and evidence respecting environmental statements

25.—(1) If a relevant planning authority, the Secretary of State or an inspector is dealing with an application or appeal, as the case may be, in relation to which the applicant or appellant has submitted an environmental statement, and are of the opinion that, in order to satisfy the requirements of regulation 18(2) and (3), it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the development described in the application in order to be an environmental statement, the relevant planning authority, Secretary of State or inspector as the case may be must notify the applicant or appellant in writing accordingly, and the applicant or appellant must provide that additional information; and such information provided by the applicant or appellant is referred to in these Regulations as “further information”.

(2) Paragraphs (3) to (11) apply in relation to further information and any other information except in so far as the further information and any other information is provided for the purposes of an inquiry or hearing held under the Act and the request for the further information made pursuant to paragraph (1) stated that it was to be provided for such purposes.

(3) The recipient of further information pursuant to paragraph (1) or any other information must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

- (a) the name of the applicant for planning permission or subsequent consent or the appellant (as the case may be) and the name and address of the relevant planning authority;
- (b) the date on which the application was made and, if it be the case, that it has been referred to the Secretary of State for determination or is the subject of an appeal to the Secretary of State;
- (c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;
- (d) the address or location and the nature of the proposed development;
- (e) that further information or any other information is available in relation to an environmental statement which has already been provided;
- (f) that a copy of the further information or any other information and of any environmental statement which relates to any application for planning permission or subsequent application may be inspected by members of the public at all reasonable hours;
- (g) an address in the locality in which the land is situated at which the further information or any other information may be inspected and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);
- (h) details of a website maintained by or on behalf of the relevant planning authority on which the further information or any other information may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

- (i) an address (whether or not the same as that given pursuant to sub-paragraph (g)) in the locality in which the land is situated at which copies of the further information or any other information may be obtained;
 - (j) that copies may be obtained there so long as stocks last;
 - (k) if a charge is to be made for a copy, the amount of the charge;
 - (l) that any person wishing to make representations about the further information or any other information should make them in writing, before the latest date specified in accordance with sub-paragraph (g) or (h), to the relevant planning authority, the Secretary of State or the inspector (as the case may be); and
 - (m) the address to which representations should be sent.
- (4) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.
- (5) Where the recipient of the further information or any other information is the relevant planning authority they must send to the Secretary of State a copy of the further information or any other information.
- (6) The recipient of the further information may by notice in writing require the applicant or appellant to provide such number of copies of the further information or any other information as is specified in the notice (being the number required for the purposes of paragraph (4) or (5)).
- (7) Where further information is requested under paragraph (1) or any other information is provided, the relevant planning authority, the Secretary of State or the inspector, as the case may be, must suspend determination of the application or appeal, and must not determine it before the expiry of 30 days after the latest of—
- (a) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent;
 - (b) the date that notice of it was published in a local newspaper; or
 - (c) the date that notice of it was published on a website.
- (8) The applicant or appellant who provides further information, or any other information, in accordance with paragraph (1) must—
- (a) ensure that a reasonable number of copies of the information are available at the address named in the notice published pursuant to paragraph (3) at the address at which such copies may be obtained; and
 - (b) take any reasonable steps required by the relevant planning authority to ensure that copies of the further information or any other information are made available for access on the website referred to in the notice published pursuant to paragraph (3).
- (9) The relevant planning authority must make the further information or any other information available for inspection on a website maintained by or on its behalf.
- (10) A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of the further information or any other information made available in accordance with paragraph (8)(a).
- (11) The relevant planning authority, the Secretary of State or an inspector may in writing require an applicant or appellant to produce such evidence as they may reasonably call for to verify any information in the environmental statement.

Consideration of whether planning permission or subsequent consent should be granted

26.—(1) When determining an application or appeal in relation to which an environmental statement has been submitted, the relevant planning authority, the Secretary of State or an inspector, as the case may be, must—

- (a) examine the environmental information;
- (b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, their own supplementary examination;
- (c) integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and
- (d) if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.

(2) The relevant planning authority, the Secretary of State or the inspector, as the case may be, must not grant planning permission or subsequent consent for EIA development unless satisfied that the reasoned conclusion referred to in paragraph (1)(b) is up to date, and a reasoned conclusion is to be taken to be up to date if, in the opinion of the relevant planning authority, the Secretary of State or the inspector, as the case may be, it addresses the significant effects of the proposed development on the environment that are likely to arise as a result of the proposed development.

(3) When considering whether to impose a monitoring measure under paragraph (1)(d), the relevant planning authority, the Secretary of State or inspector, as appropriate, must—

- (a) if monitoring is considered to be appropriate, consider whether to make provision for potential remedial action;
- (b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment; and
- (c) consider, in order to avoid duplication of monitoring, whether any existing monitoring arrangements carried out in accordance with an obligation under the law of any part of the United Kingdom, other than under the Directive, are more appropriate than imposing a monitoring measure.

(4) In cases where no statutory timescale is in place the decision of the relevant authority or the Secretary of State, as the case may be, must be taken within a reasonable period of time, taking into account the nature and complexity of the proposed development, from the date on which the relevant authority or the Secretary of State has been provided with the environmental information.

Co-ordination

27.—(1) Where in relation to EIA development there is, in addition to the requirement for an EIA to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulation Assessment, the relevant planning authority or the Secretary of State, as the case may be, must, where appropriate, ensure that the Habitats Regulation Assessment and the EIA are co-ordinated.

(2) In this regulation, a “Habitats Regulation Assessment” means an assessment under regulation 61 of the Conservation of Habitats and Species Regulations 2010 ^{M4} (assessment of implications for European sites and European offshore marine sites).

Marginal Citations

M4 [S.I. 2010/490](#). Regulation 61 was amended by [S.I. 2012/1927](#).

Status:

Point in time view as at 16/05/2017.

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, PART 5.